CARTER CENTER ELECTION WITNESSING MISSION Egypt 2011/2012 Parliamentary Elections

PRELIMINARY REPORT ON ALL THREE PHASES OF THE PEOPLEOS ASSEMBLY ELECTIONS

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EgyptÕs PeopleÕs Assembly elections enjoyed broad participation from voters and Jare Ja V L Y H toward a democratic transition. While there were shortcomings 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 EgyptÕs transition will depend on the elections are countable 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 be be be about 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 EgyptÕs 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 dedorated issent, the use of military tribunals for trying civilian suspects, and the crackdown on civil society organizations has created an atmosphere of distrust. Further, the SCAFÕs lack of transparent behavior has cassates of uncertainty about the commitment to full civilian leadership. It is in this context that the PeopleÕs Assembly elections have taken place.

Principal Findings of The Carter CenterÕs Witnessing Mission:

The Carter Center mission to witness EgyptÕs parliamentary elections is accredited by the Supreme Judicial Commission for Elections (SJCE) Carter Center deployed 40 witnesses from 24 countries to all of EgyptÕs 27 governorates. Across the three sphaseting, 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 deaders, 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 environment and the upcoming Shura Council (eler House) elections.

Assembly ElectionsThe full report isattached and is alsovailable on the CenterÕs website www.cartercenter.orgA moredetailed final report of the CenterÕs 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 electronys to soligations for democratic electric contained in regional and international agreements Center conducts its election observation mission accordance with the 2005 Declaration of Principles for International Election Observation.

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

- ! Parties and candidates representing a spectrum of views generally participated in the PeopleÖs Assembly elections without interference, despite continuation of the Emergency Law and episodic violence in and aroundahrir 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 wastimes 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, umeverforcement of the law was a concern for many stakeholders with whom the CenterÕs witnesses met.
- ! Carter Center witnesses consistently found the counting process to be chaotic. Judges used different approaches to counting and invalidating ballots, tobusen absence of clear procedures or training. In addition, the publication of results by the SJCE was inconsistent across the hasee Despite this, Carter Center witnesses found the counting process to be acceptable.
- ! The legal framework for the eople Os 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 accerbated by piecemeal and last minute amendments.
- ! The election complaints process is among the CenterÖs most significant contractions did not appear to know how to access complaints mechanisms, particutation 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 ofofficial 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 subdiary governorate committees.
- ! The Carter Center has deep reservations about the grossreptes entation 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 umopetitive 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

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 is important that the constitutional committee selected by the parliament be representative of Egyptian society particular, there should be a minimum of 30 percent women and preferably a 50 percent requirement, uded in the committee, and quotas for other vulnerable groups considered.

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

In reference to postansitional elections, The Carter Center stresses the following recommendations:

Establish an independent election commission to Carter Center recommends thou 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 thou a consultative process.

Redesign the womenÕs quota: 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 3 percent quota be introduced to ensure the effective representation of women in both houses of parlia(m)-9fial8.995J 0 Tc 11.22TJ /TT0 1 -8.995Jien64(r)-2(s)]d ()Tj /TT1 mss3(v(b)4(e)4(s)f)5(ε

THE ELECTION ENVIRONMENT

After eighteen days of popular uprisingly resignation of President Hosni Mubarak Feeta 11, 2011, initiated a transition process in Egypt. The Egyptian military Os Supreme Council of the Armed Forces (SCAF) moved quickly after the sident Ossignation to establish itself as the interimberity for the country Os transition. A referendum amending nine articles of Egypt Os 1971 Constitution was held on March 19, 2011. These articles of which were changed after the reference and number of other provisions from Egypt Os 1971 constitution, formed the basis Soc the Os Constitutional Declaration, promulgated of arch 30, 2011. The Constitutional Declaration gave the SCAF interim executive and legislative powers during the periothe transition, while acknowledging the independence of gypt Os judicial authorities.

The SCAFÕs roadmap for EgyptÕs transition has been broadly outlined to include the election of the two houses of Parliament, made up of the 500 lowerhouse PeoplÕs Assembly and the 2500 tupper houseShuraCouncil. The combined 678 elected membersthe Parliament will select a 1000 constitutionaldrafting committee towrite a new constitution that will then be put to a reference presidential elections will be heldthereafterThe 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 SCAFÕs distion to introduce the intern ConstitutionDeclarationand position itself as the terim authority over the transition has been controversial. Violent clashes erupted during the course of persistent opposition by political groups and protest movements, contesting the SCAFÕpsistelfd role andmanagement 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 polical and economic life, and for Egyptiatosrely upon legal institutions such as political parties, elections, the national legislature, and constitutional efforts (tii2(n)-33(ur)3b(nd)) ()4(t)3(h0)03 -1 froef ele(t)4(ur)3(e)1((e)1(nt)4()5(s)2(e9.1)]TJ 0.0 0 Tc 37n)-3(s)

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 SCARient 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 Os Asse Political party platforms have been shaped, anshæped, as a response to events over the extended sevenweek period of the People Os Assembly election, making events in Tahrir Square and elsewhere inseparable from the electoral politics of the moth Across the political spectrum, parties have maintained an interest in ensuring that the elections proceed credibly, and the People Os Assembly be seated as a legitimate body that can exert its influence thereafter. Amid these dynamics the electoral administration Os 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, EgyptÕs PeopleÕs 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 netrated the phased election. During each phase, polling was conducted across nine governorabeth partylist and individual candidate races were conducted together in one round of votilifgrequired, runoffelections for the individual candidate races,

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appoint these seats due to its interim existence authority. While EgyptÕs international commitments do not prescribe the electoral system to be used, it is critical that any system adopted protect and fulfill fundamental rights and freedons.

Seat Distribution

The international obligation of equal suffrage, where every voter should bragely equal voting power, is an important feature of any electoral systems sentially, the elected members of an assembly should represent a consistent portion of the populaticitizensor registered voter. This is determined by boundaries of electoral districts and the apportionment of seats assigned to the Assigned the allocation of seats to districts for the People S Assigned that a location of seats to distribution of seats assigned to the number of eligible votes where a wide variation across givernorates. To address this nequity of representation graphs a view to enhancing equal suffrage.

Quotas

Under EgyptÕs Constitutal Declaration of March 302,011, at least 50 perceoff the elected membership of the PeopleÕs Assembly must the energy worker. This quota requirement, while a historical feature of EgyptÕs electoral systems, is nevertheless controversial under international obligations that prohibit limitations on a citizenÕs rights to be electre Constitutional Declaration March 30, 201,1 as amended object 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 laws the Carter Center strongly urge EgyptÕs authorities to reconsider the farmer/worker provisions, and to consider a

Negotiations over the proportion of seats allocated to the majoritarian and proportiones entation systems were reportedly the subject of extensive discussions en 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 **preceio** f the vote in his or herdistrict, promotes a strong connection between the representative and the constituency, but does not encourage coalition building. The SCAST oncession parties to

ELECTION ADMINISTRATION

A fully judicial supervisory commission, the Supreme Judicial Commission (SJCE), leads Egyptos transitional electoral author type SJCE oversees a mixed judicial and governmental General Secretariathat is responsible for coordinating and implementing the electoral operations. SJCE is also supported in its owk by subsidiary aljudge electoral committees in each governorate agentheral 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 judiciaryÕs roles and ayuthoriowever, while the judiciaryÕs role has been strengthened, the independence of the SJCE is not explicitly stated under the SCAFÕs Constitutional Declaration. The civil law system, which is highly prescriptive, tightly binds the SJCE. Furthermore the SCAF, as the interim executive and legislative branch dutting transition has the ability to define and

addition, national and international witnesses could not be accredited at the diffrite voters list preparation. The Carter Center would stronglyommend that future exhibition and challenge processes for the voters list be the subject of extensive information campaightatelection officials ensure that witnesses are accredited well in advance the entireprocess.

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 frauthandhallenges posed by the multiple election phases. The votersÕ list was available to political parties and voters were able to check their assigned polling station by telephone, websitend text message services. In spite of initial concerns, CamberCe 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 vote at the same polling station, the list be prepared to keep families together.

Two provisions of the electoral laws heightenedithportance of the curacy of the NICFirst, the law established that the NIC was the only form of identification that could be used by voters for polling. Second, the law states that if a person is recorded in the voterso database and fails to vote without excuse he or she istable to a fine not exceed 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, prodess ir records areas accurate as possible. Together, these provisions emphasize the importance of the voterso database to credible elections in Egypt. The weak exhibition and challenge exercise was therefore a concern, and should be a focus of future forts to ensure accuracy and confidence in the system. Overall however, the voterso 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 importantweakness of the electoral administration has been its lack of capacity, and arguably its unwillingness to exert its authorito interpret and define the electoral process. While the electoral laws are detailed in some elements (such as thingorocess), 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 instructionthis area to theogral committees and presiding judges. The Carter Center of witnesses commonly observed different approaches being adopted by presiding judges. As suchine Carter Center would strongly recommend that the SJCE issue full and detailed regulations and process 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 ratiatrtg and manuals that establish a consistent procedural approachare also vital to ensure a standard level of performance across an effection. importance of these measures is particularly heightened for an operation that occurs over separate phases. The SJCE reportedly instructed the presiding judgosit was principally their responsibility to train poll workers. The SJCE issued a polling manual for judges shortly before the first round of elections, however many judges advise carter Center witnesses that they did not receive it prior to ther total

²⁷ As the regulation forhte accreditation of witnesses was not issued until October 16, 2011.

²⁸ Law on the Exercise of Political Rights, Art. 31.

²⁹ Law on the Exercise of Political Rights, Art. 40.

[&]quot;See for example, EU, Handbook for European Union Election Observation, Section d, 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 too leterspot.

of voting. Furthermore

misinformation, emerging issues crises). Conflictig 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 SJCEÕs decision making proceses.

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 ecurity. Socurity forces should sobe better trained in the appropriate and proportionate use of force, with a focuse scattering 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 athereforecritical in terms of public perception. While judges are inside polling stations heir lack of visibility and presence in and around the polling centers as concern. Similarly, at counting centers, judges have been absent at the point of access where the public is most able to view the processence and, ecurity forces have been most visible at these points, which the visible authority of the judiciary. The Cart center of searlier recommendation that extra judicial officials be assigned to liaise directly with security for and voters at polling and counting center access points would mitigate this concer

LEGAL FRAMEWORK

As noted above, EgyptÕs electoral laws have changed significantly since the departurie of the Mubarak. The SCAF, as the countryÕs legislative authority, has greatly amended existing laws to establish the framework for the 2012/012 PeopleÕs Assembly elections. The primary laws governing EgyptÕs Parliamentary electoral framework are the Law on the Exercise of Political Rights (No. 73 of 1956) and the Law Concerning the PeopleÕs Assembly (No. 38 of 1972). The Law on the Exercise of Political Rights (No. 73 of 1956) and the Law Concerning the PeopleÕs Assembly it establishes the SJCE and outlines its authority over the administration of the Parliamentary electoral probabs governs voter registration, the voting and counting processes, aslvae election elated crimes. The Law Concerning the PeopleÕs Assembly establishes the electoral system for the PeopleÕs Assembly as describễd above.

Egypt is signatory to the following international conventions or treaties on others: the ternational Covenant on Civil and Political Rights (ICCPR) the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of Discrimination against Women (CEDAW); the Convention on the Political Rights of Women; the Convention on the Rights of Persons with Disabilities, the United Nations Convention against Corruption and the Universal Declaration of Human Rights.

The Emergency Lawand the use of Military Trias

The Carter Center reiterates its concern about the inuation of the Emergency Law, which has been in effect throughout the arliamentary electoral process. The current Emergency Law runs counter to basic principles of the rule of law. The reason for 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.

^{(&}quot;Ratified, 08/04/196"7

⁴¹ Ratified 09/28/1966

^{(8 &}quot;Ratified 07/16/198")

^{(! &}quot;Ratified 04/04/2007"

^{((&}quot;Ratified 02/25/200"5

⁴⁵ United Nations, Economic and Social Council, U.N. **②do**mmission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International **ઉ**ωνε**Ω**aνil and Political Rights, para. D. **58**0: "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 to the party shall menté freedom of thought, conscience and religion. These rights are 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 tirbecoe principle right has been violated."

that they possess, a voice in the quality of the electoral process if the process is to retain c5e dibility. transparent electoral dispute resolution system is particularly importaddtes potentialinstances 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 toolsecessaryto establish a comprehensive, transparent system for receiving,

Potential Abuse of the Cassation CourtÕs 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 PeopleÕs Assern by Complaints must be filed within 30 days after results are announced. The Court then haps to 90 days to render a decision. If it finds that accused parliamentariand not posses validÓ credentials to serve arriament, the Court may orders or her

Candidate/Party Agents and Representatives

Candidate or party representatives, and candidate or party agreets, a visible presence in polling stations and counting centers. They played appoint 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 semblines, 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 analyents

¥ In the majority of polling stations and counting centers access Carter Center witnesses, representatives and agents were difficult to identify. Officials should require that all agents and

consider and approve applications to observe from electoral observation organizations at the earliest possible instance, and before the commencement of the electoral process.

ÒWitnessesÓ versus ÒObserversÓ

Egyptian authorities objected to the term Oobserver, O which they felt might incorrectly connote a supervisory role for observers over the electoral process. Eitiprately accepted both domestic and international CSOs to serve as OwitnessesO to the electoral processwed them to operate in a manner consistent with internationally recognized standards for observation turne elections, however, The Carter Center recommends the gypt allow CSOs to use the commonly recognized term OobserverOfor all electoral observation mission to the domestic and international. This will prevent the incorrect characterization of election OwitnessesO as having leist the attionally recognized rights concerning the electoral process.

Witness Access to the Electoral Process In the course of the PeopleÕs Assembly election, Carter CenterÕs witnesses were present in national CSOs have access to electoral officials. One measure for managing this kind of access would be for governoratevel SJCE officials hold regularly scheduled briefings that include a question and answer period their governorates throughout the cours

first quartile positions. 94 percent of Islamist Biotemale candidates were placed in bloetom quartile of their party lists. The perception of ÒtokenÓ 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 countingmen candidatesÕ faces watremesreplaced with a picture of a flower, and their names by the name their husband on partyliterature

In all, 339 women ran for office ithe majoritarian races. None won seats. Only one ched a runoff competition. The profile of women running for majority seats was generally urban (over 40 percent of the 339 came from Cairo, Gizand Alexandria) and white collar (over 74 percent), indicating that political participation may be largely inaccessible to workings and rural women. Although larger district magnitude for closed list raceted to favor female candidates, the vast geographic size of some rural districts coupled with limited access to campaign resources and traditional restrictions on women os 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 allowedandidate registration may have therefore iminished access for female candidates be election races for the People S Assembly. Further, as the Shura Council candidate nominations were completed simultaneously with the People S Assembly, this effects expected to carry over into the upcoming elections for the upper house.

In all, eight women won electesteats in the People's Assembly and two were appointed by the SCAF, bringing the total percent of women in the People's Assembly tounder two percent. This number falls far short of the 12.6 percent guaranteed by the quota in the 2010 Parliament and references in to levels from a decade ago, when women represented 1.8 percent of the People's Assembly £200652000

WomenÕs Participion 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 womenÕs participation as candidates or voters or to examine deal shortcomings in this area. Women participated in the elections as judges, poll workers, observersand political party agents representatives Although women onlyconstituted 2.6 percent of judges in polling stations visited by Carter Center with sessuring 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 ffsn Carter Center witnesses reported that men constituted over percent of political party agents and 31 percent of domestic observers. Despite SCAF Decision 69 (issue 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 Cemiter esses 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 boxes. 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 SalAfistourAl-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 Alliathster (2): All

⁸¹ Respective list positions for women running under the four coalitions are as follows: Democratic Alliansec@artile/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.

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⁸³ Gender Assessent USAID/Egypt (2010).

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 oter education negatively impacted women Õs participation, especially given lower rates of literacy among women Center witnesses reported widespered sure on women voters, including, for example the threat that a woman voting for affelient candidate than that chosen by the family or tribe constitutes legal grounds for divorce. Although witnesses reported that many voters failed

electorate⁸⁸ Although The Carter Center

line into active campaigning. To eliminate the need to police entire electoral districts for illicit campaigning, the Carter Center argaecommends that lawmakers establish distance or other physical restrictions on campaigning outside of polling centerselection days

- ¥ Prohibitions against allowing candidate and party representatives from handling ballot boxes during transport or from otherwise participating directly in any aspect of threake or counting process that should be handle
- ¥ Establishment of uniform guidelines for the proper conduct of party and candidate representatives, candidates, domestic and international witnesses ja, judgespoll workers, and security personnel inside counting centers
- ¥ As with polling centers arequirement hat every counting center committee include a judge who is