

Carter Center Congratulates Libyans for Holding Historic Elections

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Executive Summary

The July 7 elections provided Libyans an historic opportunity to vote in meaningful national polls for the first time in almost six decades. The Carter Center was honored to be invited to observe the elections, and congratulates the Libyan people, the High National Elections Commission (HNEC), and the National Transitional Council (NTC) for their dedication and

- electoral system and fair representation for all its citizens.
- Enhance the work of the HNEC and Ministries of Interior and Defense to coordinate formal election security and develop robust security plans.
- Develop electoral dispute resolution procedures and judicial bodies to provide for a timely and effective remedy to challenges and appeals by voters and candidates.
- In drafting a new constitution and in future elections, allow adequate time for preparations, deliberation, and public consultation.
- Apply important lessons learned during the General National Congress elections to future

available at www.cartercenter.org.

The Carter Center assessment of the electoral process is made against the interim

international commitments regarding democratic elections and political participation. The Carter Center received formal accreditation from the HNEC in May 2012 and has been welcomed by representatives of the NTC, political entities, and civil society. The Center is nonpartisan and conducts its activities in accordance with the Declaration of Principles for International Election Observation, adopted at the United Nations in 2005.

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. These incidents once more highlighted the lingering incapacity of the

Of these conflicts, the persistence of attempts to diminish the power of the central government in Libya is historically the most important. The creation of the Kingdom of Libya in 1951 created a federal system that left considerable power to the different provinces. While this federal formula was abandoned in favor of a unitary form of government in 1963,

conflict in October 2011. While being sensitive to greater demands for some form of autonomy for Cyrenaica, the NTC has insisted that federalism is not appropriate for Libya as it moves forward as a political community.

The election of the General National Congress (GNC) provides a first but critical step in faces enormous political challenges as it seeks to draft a new constitution and to shape itself into an inclusive and democratic political community where its citizens have a credible voice -making process.

LEGAL FRAMEWORK

A comprehensive legal framework is essential to protect genuine democratic elections and provide for their effective administration. This framework ensures that the state takes all access to an effective remedy. A sound legal framework also reduces corruption by encouraging transparency and providing mechanisms for handling complaints.

The NTC established an ambitious schedule for the elections. Given the time constraints under which the elections were conducted, the legal framework was appropriate and adequately allowed for elections to take place. As a signatory to a number of international treaties, Libya has committed itself to upholding several important civil and political rights.¹ Additionally, following the Feb. 17, 2011, revolution and the formation of the NTC, legislation comprising the legal framework was introduced.

The constitutional declaration set a period of 240 days (later changed to 270 days) to carry out the GNC elections.² The GNC elections law was issued on Jan. 28, 2012.³ Due to its delayed formation in January 2012, the HNEC was challenged to implement the elections in an extremely condensed period.⁴ This extremely tight timeframe affected almost all phases of the electoral process, including the introduction of the election law, regulatory measures and operational aspects of the elections.

¹ Libya is sig-5(i the t)4(iaib)-16(y)18(a)-4(i)-10(t61-10(t61-10(t6ETBTIibs)328, 2012.)JTJEl { T)-8(he)4mc)4)-8(a)4r-5BDC

The Interim Constitution

In August 2011, the NTC issued a constitutional declaration outlining the guidelines for the interim period.⁵

electoral experience, HNEC staff should be commended for carrying out their responsibilities with a high level of dedication and professionalism. The election administration nevertheless was negatively impacted by the compressed timeframe, with decisions in some cases being issued after the affected activities had already started.¹⁷

Boundary Delimitation

In determining boundary delimitation, constituencies should be drawn so that voters are represented in the legislature on an equal basis.¹⁸ Boundary delimitations were established in May 2012, approximately three months after the electoral law.¹⁹ The electoral law determined the electoral system and the number of seats that were subsequently allocated to electoral districts. It is unusual to decide on the electoral system and the number of seats, and then to try to allocate districts to the system; both the electoral system and the boundary delimitation should go hand in hand, as the delimitation is considered the most important variable in any electoral system.

When the HNEC divided the country into districts, they considered population size, geographical area, and social and historical conditions. The resulting boundary delimitations formed 13 administrative districts housing 73 constituencies. Voters in 69 constituencies cast ballots for one or more individual candidates to represent them in the GNC. For the election of political entities, the 73 constituencies are grouped into 20 electoral districts, which will elect a total of 80 members. While noting concerns to provide adequate representation for all regions, this method of districting does not respect the international obligation of equal suffrage.²⁰

VOTER EDUCATION

Voter education efforts are necessary to ensure an informed electorate is able to effectively exercise their right to vote.²¹ As the first election in almost 50 years, efforts to educate voters on the importance of the elections, the type of elections taking place, and the impact of their vote is even more crucial. These types of voter and civic education programs came under the mandate of the HNEC, but many of their planned activities were severely restricted or cancelled due to the tight timeframe.

encouraging Libyans to vote. Libyan scouts, who were trained how to vote and supplied with civic education materials, provided grassroots training, particularly targeting the youth.

(My vote for her) campaign encouraged all voters to support female candidates.

VOTER REGISTRATION

Voter registration is an important means of ensuring that the right to vote in a genuine election is protected. An effective voter registration enforces universal and equal suffrage while increasing transparency in the electoral process.

elected include those based on political affiliation, be it past or present.²⁷ In addition, good practice sources suggest that the loss of this right should only be imposed after adjudication by a court of law.²⁸

The right to stand for public office was granted to every Libyan at least 21 years of age who is literate and not a member of the NTC, Interim Government, or the HNEC. Furthermore, a candidate should not be a former member of the executive office or chairpersons of local councils during the previous regime. Candidate registration took place over the period May 1-15, during which time 3,767 candidates registered, running either as individuals or as part of the 377 lists representing 130 political entities.

Although women played a notable role during the uprising, only 585 women registered as candidates. The vast majority of female candidates registered on the PR list. Only 85 women registered as individual candidates.

High Commission for Implementing Integrity and Patriotism (HCIIP)

The HCIIP is in charge of examining the files of candidates applying for any public post or currently working for the Libyan government as well as candidates for the GNC. HCIIP members were nominated by the NTC.²⁹ Five members (including the head of the HCIIP) are judges; others include lawyers, university professors, civil society activists, and political prisoners during the Qadhafi era. Members represent different geographic areas and ethnographic components of Libyan society.

The HCIIP approved or disqualified candidates for GNC elections according to several candidacy requirements spelled out by law.³⁰ Rejected candidates have the right to appeal decisions of HCIIP in the court of first instance within 48 hours

³¹ The court has to issue a verdict within three days from receiving the appeal.

The HCIIP received almost 4,000 files for GNC candidates, with the legal period to examine the files and issue either a decis

The fact that only a small percentage of the files presented to HCIIP were refused
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affiliated with one of the military institutions; or convicted of a felony without being rehabilitated.

The legal period for the removed voters to appeal against their removal was five days from the date of the court ruling. On June 16, 2012, the district court of Kufra informed the HNEC

June 26, the HNEC issued its decree number 92 for 2012 ordering the removal of 1085 voters

Education asking for the replacement of the committees in charge of the electoral process in Al Manara and Hettien Centers in Kufra.

The Carter Center notes that the original complaints were filed after the legal time frame. By

place between May 23- 27.⁴² Most of the complaints were filed starting on June 2. In

from exercising their right of appeal. The HNEC should take more timely decisions to ensure effective dispute resolution and to uphold the rights of citizens to appeal. In future, the

and must perceive that they possess, a voice in the quality of the electoral process if the process is to retain credibility.⁴⁵ Election dispute resolution is one of the main responsibilities of an election commission. HNEC officials avoided assuming a strong role in the consideration and adjudication of electoral complaints for several months, preferring that aggrieved parties seek remedy through the judicial system.

The electoral complaints mechanism set forth in the electoral law gives concerned parties the right to appeal any stage of the election process to the courts.⁴⁶ While the courts could adjudicate complaints, the appeals process could take up to 12 days to pass its final verdict. The process could deny aggrieved parties a timely remedy, particularly given compressed electoral periods and strict electoral deadlines.⁴⁷

With reluctance, the HNEC issued a decree on June 27, 2012, to establish 13 sub-district committees to address electoral complaints.⁴⁸ Each committee has a range of options from taking immediate action to respond to the complaint; referring it to a specialized criminal court; or referring it to the HNEC for further consideration. The HNEC has the authority to disqualify candidates, political entities, or voters from participation or cancelling the results of any polling station in case of fraud or other violation.⁴⁹

Many Libyans do not seem to be aware of their full rights to initiate complaints regarding the electoral process, including the processes for filing a complaint and what constitutes electoral misconduct. Concerned parties who wished to file complaints during polling and counting could receive a complaints form from the polling stations for delivery to the district level. In many cases, this could be laborious since polling centers could be located hundreds of kilometers away. While the procedures instruct polling staff to note any complaints in the polling station journal, and address complaints of an administrative nature, they are not required by law to do so.

The election law states that the HNEC shall verify compliance with the provisions regarding the electoral campaigning.⁵⁰ The HNEC did not establish any mechanism to ensure a proactive verification of the electoral campaigns; instead it depends mainly on the complaints

rights or freedoms are herein recognized as violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted."

⁴⁵ Fair trial includes the guarantee of a fair and public hearing."

⁴⁶ procedures in any stage of the electoral process within 48 hours of the date on which the appealed incident took

⁴⁷ Law 28 for 2012, amended article 32 of Law no 4. District court judges with electoral district jurisdiction have 48 hours to pass a verdict in the complaints. Appeals against the court ruling must be filed within five days with the Court of First Instance, which has five days to pass its verdict.

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from concerned parties.⁵¹ Future electoral management bodies should assume a greater and more effective role in adjudicating electoral disputes.

POLLING

The Carter Center conducted a limited election observation mission, accrediting 45 observers from 21 countries and deploying 16 teams of observers. On election day, observers visited more than 160 polling stations in 11 of 13 electoral districts, including teams in Ajdabiya, Al Bayda, Zuwiya, Gharyan, Khoms, Benghazi, Sebha, Sabrata, Tobruk, Tripoli, and Zuwara.

Despite logistical challenges, materials were delivered in a timely manner to nearly all locations. In areas visited by Carter Center observers, voting was orderly and polling stations were well managed and efficient. Polling staff appeared well trained and enthusiastically conducted the elections in a neutral and professional manner.

The commission made extraordinary efforts to conduct polling in all locations despite security incidents in the immediate election period and on election day. Attacks on HNEC district headquarters in Benghazi, Tobruk, Ajdabiya, and on a military helicopter used by

However, Carter Center observers did report that secrecy of the ballot was not adequately ensured in 8 percent of polling stations observed, mostly due to inappropriate voter assistance or to inadequate polling station layout.

While many Libyans appeared to understand how to vote, seven different teams of Carter

Overall, polling at the polling places visited by observers was conducted in accordance with international standards.

OUT OF COUNTRY VOTING (OCV)

In accordance with Libyan law, Libyans living abroad were afforded an opportunity to register and vote in the GNC elections. Libyan citizens across the world could register and vote on the same day in any one of six countries selected by the HNEC for expatriate voting: Canada, Germany, Jordan, United Arab Emirates, United Kingdom, and the United States. The Center regrets that only 8,043 overseas voters cast a ballot in these historic elections. Greater public outreach efforts should be made in future elections to encourage Libyan citizens to participate and exercise their full rights of citizenship.

While geographic considerations were taken into account, there are questions about the choice not to extend OCV to certain countries where large numbers of Libyan nationals reside, such as in Egypt and Tunisia. Efforts should be made to review the procedures for future OCV processes to ensure as inclusive participation as possible.

COUNTING AND TABULATION

The accurate and fair counting of votes after polling plays an indispensable role in ensuring the electoral process is democratic and reflects the will of the voters. Carter Center observers were present for the full count at only eight polling stations. This sample is too small to offer a reliable assessment of the counting process.

Tabulation began the day after the election at the HNEC headquarters in Tripoli. The Carter Center will issue a separate statement that addresses the tabulation process and the resolution of any electoral disputes.

SECURITY

Together with the HNEC and the Ministry of Defense, the Ministry of the Interior developed a security plan for election day that combined various available components, including personnel from local military councils, police, and the Supreme Security Committee (SSC). The plan assigned responsibility for the security of urban polling centers to police and the SSC, while military councils and their militias were responsible for the security of rural polling centers and the establishment of checkpoints.

Localized armed clashes in Kufra, the Nafusa mountains, Ghadamis, and Sebha, as well as opposition to the electoral process, mostly in the east of the country, were the greatest challenges faced by the Election Security Committee in providing a safe and secure environment for voters to cast their vote. Opposition to the election process by several groups

and their actions in the east was the main reason for delayed openings or permanently closed polling centers in certain areas. Related incidents such as the destruction of election material on site or en route to polling centers, an attack on a military helicopter used by the HNEC, and incursions to polling centers on election day marred the process in these areas, and may have intimidated voters and reduced overall turnout.

BACKGROUND ON THE CARTER CENTER'S ELECTION OBSERVATION MISSION

The Carter Center conducted an assessment mission to Libya in late March 2012. The Center commenced its limited election observation mission in May 2012 with the arrival of a core team, followed by the deployment of 10 medium-term observers. Prior to election day, The Carter Center welcomed the arrival of several short-term observers who increased the presence of The Carter Center in Libya and supported observation of the election day, although still limited by security concerns in geographical and population coverage.

findings and analysis to enhance the quality of future elections, b) to promote a process that is credible, transparent, and free from violence, and c) to demonstrate international interest in and support for the elections.