



EISA Witnessing Mission to the Egyptian People's Assembly Elections

Third and Final Phase

10-11 January 2012

Preliminary Statement

1. Introduction

In pursuance of its commitment to supporting the democracy building process in the Arab Republic of Egypt, the Electoral Institute for Sustainable Democracy (EISA) responded to the invitation of the Supreme Judicial Commission for Elections (SJCE) by deploying an Election Witnessing Mission to the People's Assembly (PA) elections staggered in three phases from November 2011 to January 2012. The EISA Mission witnessed all the three phases of these elections and issued preliminary statements for the first and second phases. This statement deals with the third and last phase of the PA elections of which the first round was held on 3 and 4 January 2012, and the runoff on 10 and 11 January 2012. The statement presents findings and recommendations on these elections and offers an overview of the Mission's findings on the entire PA elections as the first leg of the parliamentary elections draws to a conclusion.

Composed of six Long Term Witnesses and three Short Term Witnesses drawn from civil society organisations from Cameroon, Côte d'Ivoire, the Democratic Republic of Congo, Mozambique, South Africa, South Sudan and Tunisia, the Mission witnessed the third phase of the PA elections in four governorates namely Marsa Matruh, El Minya, Qaliubiya and South Sinai. The Mission was informed of the cancellation and postponement of elections of party list and/or individual candidate in Aswan, the city governorate of Cairo, in one constituency of Sohag, South Sinai and Bhana in the governorate of Qaliubiya. The Mission has been informed that the cancelled elections were to be re-run from 10 to 19 January 2012.

The constitutional, legal and regulatory framework of Egypt, the Principles for Election Management and Witnessing (PEMMO), the AU Declaration on the Principles Governing Democratic Elections in Africa and the Declaration of Principles on International Election Witnessing served as the basis for the Mission's

assessment of the PA elections. Similarly, the election assessment of the EISA Mission builds on findings made during the first and second phases of the PA elections.

Throughout the process, EISA teams of witnesses continuously engaged various electoral stakeholders and other witnessing teams in consultative meetings at national level and in the various deployment areas in 12 governorates, namely Alexandria, Aswan, Cairo, El Minya, Fayoum, Giza, Ismailia, Marsa Matruh, Qaliubiya, Red Sea (Hurghada, Safaga and Ras Gharib), South Sinai (Sharm El Sheikh, Dahab, Nuweiba, Abur Deiss, Abu Zneema and El Tur) and Suez. On Election Days, the Mission visited a total of 455 polling stations, and subsequently witnessed the counting of ballot papers at the counting centres.

As re-run elections are scheduled to take place until 19 January 2012, the Mission's conclusion on the People's Assembly Elections is restricted to the period up to 13 January 2012.

2. Findings of the Mission

The Mission's assessment of the three phases of the People's Assembly Elections is based on the legal framework of the Arab Republic of Egypt, and regional and international best practices. The EISA Witnessing Mission made the following findings and recommendations with a view of contributing to the improvement of the electoral process ahead of the Shura Council elections and other future electoral processes:

- ❖ **Participation of the electorate:** Egyptians voters must be commended for their participation on election days. However the Mission noted a lower turnout during the runoffs in comparison to the relatively high voter turnout in the first rounds of the People's Assembly elections. Furthermore, the Mission hails the visible enthusiasm and impressive turnout of women across the three phases of the elections. Their presence was noted both in women only polling centres as well as in mixed polling centres. Voters were able to exercise their civic duty as most voters were in possession of the national ID and had prior knowledge of their polling station. Nonetheless, the Mission notes that long distances to polling centres in some areas, especially in sparsely populated areas, posed a challenge to voters to effectively participate in the elections.
- ❖ **The role of security forces:** The Mission noted the presence of security forces in all polling centres visited. However, in some instances, the Mission witnessed security forces getting involved in some of the responsibilities of polling staff, a practice which should be discontinued.
- ❖ **Secrecy of the vote:** Due to voters' uncertainty over voting procedures, the low level of literacy in some areas, overcrowding, set-up of voting booths facing the polling officials and the narrow size of some polling stations, secrecy of the vote was not always safeguarded in the first and second phases of the elections. There was a noticeable improvement in the protection of the secrecy of the ballot during the third phase as a number of polling stations had one stream only and the voting more orderly.
- ❖ **Voter education:** Voters' limited knowledge of voting procedures was frequently noted across the three phases of the PA elections. The assistance of judges was frequently required due to voters' inadequate familiarity with voting procedures.

- ❖ **Women's participation and representation:** Women have been highly represented among the polling officials as female polling staff were present in 329 out of 455 polling stations visited in the three phases. The number of women polling officials has consistently increased across the three phases as the Mission noted the presence of female polling staff in 116 out of 174 polling stations visited in the first phase, in 137 out of 171 polling stations visited in the second phase and in 75 out of 110 polling stations visited in the third phase. Regrettably, the Mission noted the low number of female party and candidate agents and female candidates across governorates throughout the process. It was observed that there were too few women in winnable positions on the party lists (e.g. top of party lists). Most political parties invariably placed women at the bottom of the list, thus denying them any chance to be elected. The inclusion of women on the party list seemed to be for the sake of meeting a legal requirement as opposed to genuinely ensuring fair representation of women.
- ❖ **Contribution of party agents to the transparency of the process:** There was a significant presence of party agents on voting days, particularly in the last phase of these elections. This Mission views their presence as a gauge of transparency. Party agents however displayed limited knowledge of their role and responsibilities.
- ❖ **Participation of domestic witnesses:** The number of domestic witnesses decreased considerably as the People's Assembly elections drew to their conclusion. Their insufficient number was noted during the second and third phases. Lack of capacity and funding, highlighted by civil society organisations in the consultative meetings, contributed to the reduction in the numbers of domestic witnesses.
- ❖ **Access of international witnesses to polling centres, polling stations and counting centres:** Access to polling and counting centres has appreciably improved across the phases in view of the difficulties international witnesses encountered in the first and second phases in particular. In the third phase of the elections, judges have been more welcoming and receptive to international witnesses. In many instances, judges and security forces have misunderstood the presence and role of international witnesses. Occasionally, international witnesses were subjected to harassment by security forces or asked to wait for the authorisation of judges to enter the polling centres or stations. As a result, international witnesses were unable to follow critical steps of the voting process such as the opening and closing procedures. In some instances, international witnesses were requested to step out of the polling stations before closing of the polling stations due to judges' denial of permission. The Mission noted the inconsistency as to who has the final say over authorisation of entry to the polling centres.
- ❖ **Campaigning:** Active campaigning and electioneering at the polling centres and stations was particularly a major concern during the first phase as various tactics were used by political parties during this phase. Although the Mission noted subtle canvassing and campaigning on voting days during the third phase of the elections, there has been an improvement in regards to active electioneering. The Mission noted the efforts to remove campaign posters from the walls of some polling centres. Campaign materials were clearly displayed throughout the voting process in the first and second phases. The Mission was pleased to observe the compliance of political parties with the 48 hour end-of-campaign period.

- ❖ **Inconsistency in the application of the indelible ink:** Across the three phases, the Mission noted the lack of consistency in the application of the ink. The ink was not used at all in some polling stations. Throughout the entire process, polling officials did not check ink residue on voters' fingers prior to the issuance of ballot papers. Polling agents endeavoured to apply the ink on the same finger, as in previous rounds, in a few polling stations during the third phase.
- ❖ **Access of physically challenged voters to polling centres and stations:** Physically challenged voters had difficulties accessing the polling centres and stations because of the lack of logistical arrangements and the location of some polling stations. The set-up of metal detectors in one of the governorate further restricted the access of physically challenged voters to the polling centres.
- ❖ **Reconciliation of ballot papers:** Uncertainty over the reconciliation of ballot papers still remains as the Mission witnessed inconsistency of counting methods across all three phases. In some instances, reconciliation was conducted prior to counting, while in others judges proceeded with the count of ballots without any reconciliation.
- ❖ **Counting process:** Disorganisation prevailed during the counting process in the first and second phases of the elections. There has been an improvement as counting centres were more orderly and organised in the third phase. The Mission noted across the three phases the lack of standardised counting procedures. It noted with concern the invalidation of ballots during the count. Ballots were rejected in terms of Article 33 of Law No. 73 of 1956 on Exercise of Political Rights. According to this Article, a ballot is considered spoilt if the voter votes for less or more than the stipulated number of votes. The Mission noted that the intention of the voter who had cast one vote only on the individual candidate ballot instead of the required two votes was not taken into account due to the strict interpretation of Article 33. The Mission is of the view that the invalidation of ballots could lead to candidates disputing the validity of the outcome of the elections.
- ❖ **Election procedures:** The Mission witnessed a number of inconsistencies in the application of the voting and counting procedures. Due to the absence of written procedures on voting and counting and a lack of systematic training for judges, polling and counting staff, different methods were applied for instance in opening polling stations, the application of the indelible ink, sealing of the locks, the reconciliation and counting of ballots and the handling of sensitive materials after the poll.

3. Recommendations of the Mission

Based on its observations and findings, the Mission makes the following recommendations with the aim of contributing to the improvement of future electoral processes in Egypt:

- ❖ **Legal framework:**
 - For the purpose of improving the transparency of the results process, the counting should take place at the polling stations with the official results displayed at polling station level. The legislation should include detailed provisions for the publication of results.

- Legislation should be amended to include provisions on delimitation so as to specify criteria on the identification of polling centres. Legislation should ideally provide for the establishment of an adequate number of polling stations for maximum participation of voters.
 - Amendments to electoral legislation should be enacted sufficiently in advance of elections to provide political parties, candidates and voters adequate time to become informed of the rules of the election process.
 - The Mission recommends that Articles 26 and 27 be reinforced to ensure that only authorised persons are allowed in the polling stations. In addition, there should be an amendment specifying the clear role of the military and the police. The Mission recommends that the military and police maintain an appropriate distance from the polling stations, as required by the electoral law in Article 26 of Law No. 73 of 1956 on the Exercise of Political Rights.¹
 - The Mission recommends reasonable, specific and adequate time limits should be included in the legislation for the timely and effective filing, hearing and determination of election-related petitions.
 - In order to ensure that the intention of the voter is taken into account, the Mission recommends the revision of Article 33 of Law No. 73 of 1956 on the Exercise of Political Rights.
- ❖ **Civic and Voter Education:** Civic education and voter information and education are important to ensure, not only that all eligible citizens are aware of their rights to vote and their obligations, but also that they are familiar with the voting procedure. The Mission recommends the development and implementation of a broad voter education programme.
- ❖ **Training of polling officials:** The Mission recommends that the HEC put in place detailed procedures on voting and counting and implements a systematic training programme for all polling staff, including the judges.
- ❖ **Gender Representation:** The Mission recommends that corrective measures, such as appropriate legal reforms and possibly quota requirements, be undertaken in order to achieve gender parity not only in the nomination process, but also in the final makeup of the representative chambers. Legal mechanisms should be put in place to ensure that political parties place women in winnable positions.
- ❖ **Counting process:** The Mission strongly recommends that counting of votes take place at polling station level as a decentralised counting process will ensure more transparency and efficiency. The HEC should issue standardised counting guidelines and training counting staff on these procedures.

¹ **Law No. 73 of 1956 – Exercise of Political Rights** (Amended by Laws No.: 235 of 1956, 4 of 1958, 23 of 1972, 76 of 1976, Decision-law No.41 of 1979, Law No.46 of 1984, and Decision – Law No.: 2 of 1987, 202 of 1990, and 220 of 1994 and Law No.13 of 2000, Decision-Law No.:167 of 2000, Law No. 173 of 2005, 18 of 2007, and Decree-Law No. 46 of 2011)

4. Conclusion and Way forward

At the time of the release of this statement, re-run elections were taking place in a number of governorates where elections were cancelled. In addition the tabulation and announcement of results of the third phase of the People's Assembly Elections in some of the governorates was ongoing. The EISA Mission's conclusion on the conduct of the People's Assembly elections is therefore restricted to the period up to 13 January 2012. Based on its findings and the Egyptian legal framework, the guidelines enshrined in the PEMMO, the AU Guidelines and the Declaration of Principles on International Election Observation, the EISA Election Witnessing Mission concludes that the People's Assembly elections were conducted in a manner that allowed the free expression of the choice of the people of the Arab Republic of Egypt. The Mission calls upon the SJCE to ensure the timely, transparent and efficient completion of the People's Assembly Elections as a lengthy process could affect the preparations for the Shura Council Elections. The Mission trusts that the re-run elections and the announcement of results will be conducted in a peaceful manner to ensure that the final outcome of the People's Assembly Elections reflects the choice of the Egyptian electorate.

EISA will issue a comprehensive final report on the whole legislative election after witnessing the Shura Council Elections.

The EISA Election Witnessing Mission expresses its deepest gratitude to the people of the Arab Republic of Egypt for the kindness and hospitality extended to the Mission. The Mission is thankful to the Ministry of Foreign Affairs and the SJCE for their kind assistance to the EISA Election Witnessing Mission throughout the process.

About EISA

Formed in 1996, the Electoral Institute for Sustainable democracy in Africa (EISA) has established itself as a leading player in the field of elections and democracy in Africa. EISA has evolved from an election NGO servicing Southern Africa into a more diversified organisation working throughout the continent with national, regional, Pan-African and global partners. The Institute's work covers not only elections but also other Democracy & Governance fields like political party development, conflict management, legislative strengthening, the African Peer Review Mechanism and local governance and decentralisation. With its headquarters in Johannesburg (South Africa), EISA has current and past field offices in countries including Angola, Burundi, Chad, Côte d'Ivoire, Democratic Republic of Congo, Kenya, Madagascar, Mozambique and Sudan, a reflection of its broader geographical mandate.

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