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FOR IMMEDIATE RELEASE

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**Carter Center Congratulates Kenyan Voters on Peaceful Election, Urges Patience While
Results Processed**

Voters cast their ballots in a peaceful environment. Voter turnout appears to have been high. The Independent Electoral and Boundaries Commission has made important commitments to improve the transparency of the counting and tabulation of votes. Although partial provisional results are available, the full tabulation of results is ongoing.

The Center regrets the security incident at the coast on the eve of election day, which led to the unfortunate loss of lives including the death of an Independent Electoral and Boundaries Commission agent during the course of his duties. Their extreme sacrifice is a constant reminder

short-term observers from 19 countries to observe voting and counting. The mission was led by former Zambia President Rupiah Banda and Carter Center Vice President for Peace Programs Dr. John Stremlau. On election day, Carter Center observers visited 265 polling stations in 34 counties.

The Carter Center is in Kenya at the invitation of the Independent Electoral and Boundaries Commission and will provide an impartial and independent assessment of the electoral process to be made available to Kenyan citizens and the international community through periodic public statements. The Center makes its assessment based on Kenya's legal framework and its

The Carter Center International Election Observation Mission

Statement of Preliminary Findings and Conclusions

On March 4, 2013, Kenya held its fifth elections since the re-establishment of multi-party politics in 1991. The country has a longstanding history of ethnic fuelled electoral violence, which culminated in post-election violence in 2007 and 2008, leaving more than 1,000 dead and over 600,000 internally displaced people. The March 4 elections were the first conducted under the terms of the new constitution adopted by referendum in 2010, with a new electoral management body, the Independent Electoral and Boundaries Commission (IEBC).

The Carter Center launched its election observation mission in Kenya in January 2013 with the deployment of 14 long-term observers from 11 countries. They were joined by 38 short-term observers from 19 countries to observe voting and counting. The mission was led by former Zambia President Rupiah Banda and Carter Center Vice President for Peace Programs Dr. John Uvtg o ncw. Qp gngvkkp fc{, vjg Cgpvgtøu qdugtXgtu xkukvgf 265 rqnkpi uvcvkqpu kp 34 eqwvkgu. Carter Center observers will continue to observe the tabulation process, dispute resolution, and the post-election environment.

Elimination of all Forms of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples' Rights (ACHRT), the African Charter on Democratic Elections in Africa (AU CPGDEA), the Protocol to the African Charter on Human and Peoples' Rights (ACHRT-PW), and the Convention on the Rights of Persons with Disabilities.

The Elections Act, the Independent Electoral and Boundaries Commission Act, and the Political Parties Act provide solid grounds for genuine elections. In addition, with two codes of conduct, the legal framework provides for a solid framework for a peaceful campaign. Effective access to the legal framework is made difficult by the variety of acts and the profusion of subsidiary legislation, published in the Kenya gazette without further dissemination. The legal framework could be made more accessible to stakeholders and especially voters by a compilation of its regulations.

In contrast with 2007 elections, the current legal framework provides for a credible dispute resolution mechanism thanks to the reform of the judiciary, described in more detail below.

The Carter Center regrets the decision not to apply the two-thirds gender quota, which represent a step back from the constitutional commitment of Kenya to ensure equal eligibility and participate in formulation of government policy as stated in the Convention on the Elimination of all Forms of Discrimination against Women.²

The Center also notes that the absence of campaign finance regulations reduces transparency in campaign spending and gives an unfair advantage to the wealthiest candidates.

Good practices in achieving elections that meet international standards advise that no substantial change to the electoral law should be made within six months prior to elections. Unfortunately, several amendments were made in this period, one of them withdrawing the obligation of party membership three months prior to party nomination. This allowed candidates to switch parties at the last minute, opening the possibility of "party hopping" for losing aspirants and thus withdrawing an essential safeguard against fraud, manipulation, and antedating of nomination documents.

The Center regrets the disenfranchisement of prisoners, whom in spite of a court recommendation to include them in the voter register, were not permitted to participate in the process.

Election Administration

An independent and impartial electoral authority that functions transparently and professionally is internationally recognized as an effective means of ensuring that citizens are able to participate in a genuine democratic election and that other international obligations related to the electoral process can be met.³

² Ratified by the Republic of Kenya on March 9, 1984.
UNHRC General Comment No.25, para. 20

observers reported isolated cases of vandalism such as destruction of campaign posters. The Carter Center welcomed the organization of a public rally at Uhuru Park on Feb. 25 where all presidential candidates pledged to peaceful elections. The event gathered a big crowd of supporters and showed a strong moral commitment to a peaceful electoral process.

Campaign finance is provided to national political parties by public funding in proportion to the strength of their representation in parliament or votes garnered in previous elections. Unfortunately, the absence of a fully defined official campaign period tends to penalize candidates and parties who lack the resources to run a long and expensive campaign. Financial

Carter Center observers visited a total of 265 polling stations on election day, where they observed the opening of the polls and the polling, closing, and counting procedures. Overall, Carter Center observers reported strong voter turnout and that the process was well conducted by IEBC officials. Polling station staff generally performed according to procedures with a rating of good or very good in more than 90 percent of stations visited.

Polling operations throughout the day, including counting, were performed in a largely peaceful atmosphere. Two serious incidents of violence with multiple deaths seriously marred election day in the coast region and forced the relocation of a constituency tally center.

For the 2013 elections, there were approximately 32,400 polling stations with a significant variance in the number of voters per polling station. Some 50 percent of polling stations had more than 400 voters and many large polling centers were established, often as a single polling station. It appears that the high number of voters at some polling locations is attributable to the delayed voter registration period while the electoral law also required the IEBC to gazette the number of polling stations 90 days before the elections (and before the voter register was finalized). One consequence was that while the IEBC sought to limit most polling stations to fewer than 1,000 voters, many locations felt the pressure of several thousand people

The IEBC is commended for its efforts to acquire, produce, and distribute both sensitive and nonsensitive election materials. Carter Center observers found that 95 percent of polling stations visited had all necessary materials by the time polling stations were to open at 6 a.m.

Carter Center observers noted that in some 20 percent of locations visited, the layout of the polling station and placement of the voting booth, particularly those in stations with limited space, could have compromised the secrecy of the vote. However, in these cases Carter Center observers did not report serious concerns about violations of ballot secrecy or incidents of intimidation or concern among voters.

According to public international law, all persons have the right to participate in the public affairs of their country.¹² This includes the right of citizens to participate in non-governmental organizations as well as the right of citizens to participate in citizen observer organizations and contribute to voter education efforts. Through these means, civil society can actively play an essential role in upholding an electoral process that is accountable and in which all participants can have confidence.

Rqnkvecn rctvkgu cpf kpfgrgpfgpv ecpfkfcvguø cigpvu htq o oqtg vjcp qpg rctv{ ygtg rtgugpv cv almost all of the polling stations observed. Very few polling station complaints were recorded officially. Domestic observers were also prevalent at 60 percent of polling stations. The Center

from any action that may lead to compromising security of the elections in general and the Kenyan people in particular.

Tabulation

To promote transparency and reduce corruption, the IEBC has followed international best practice by providing party agents with signed copies of the polling station results. Polling station tallies were posted at the completion of the count and presiding officers were to transmit the presidential results directly to the national tally center via an electronic results system designed for use via mobile handset. In theory, every polling station result for the presidential election would have been transmitted to the national tally center once counting was completed on election night. Media and the public also have direct access to this feed, an impressive commitment to transparency and providing an important means to get provisional results into the public domain quickly. Unfortunately this has not been the case and while a significant number of results (representing some 40 percent) were posted within 24 hours of the close of polls, the majority were not.

The legal official results are on paper tally sheets from each polling station and these are to be transported securely to the 290 constituency tally centers, where once again they are to be available for scrutiny of party agents and observers and publicly posted. At the time of this statement, Carter Center observers report that this process has largely occurred without problem. Once completed at the constituency level, presidential tallies are to be delivered directly to the national tally center for final compilation by the IEBC.

Meanwhile, the remainder of the tabulation process will continue for the other elections and move up the chain to the 47 county tally centers. The Center hopes that political parties and observers will continue to follow the tabulation process to its conclusion to ensure that clear, detailed results by polling station are recorded and confirmed. Carter Center long-term observers will remain deployed to the completion of the results process.

The detailed, written procedures and guidelines for the organization and processing of polling station results have not been made available by the IEBC to the Center. General procedures were published but while the tally process appears to have been well-conducted thus far, written procedures are essential in the event of any election disputes that may arise. In future elections, the IEBC should strive to release procedures earlier.

The Center encourages political parties and candidates to continue to exercise patience as the results process continues and to bring any complaints they may have to the appropriate legal channels.

The Judiciary

Impunity within the justice system undermined the rule of law and underscored the need for urgent corrective measures to prevent a crisis similar to what Kenya experienced in the last elections. In 2011, the Vetting of Judges and Magistrates Act was passed by parliament, establishing the Judges and Magistrates Vetting Board to vet the suitability of all judges and magistrates who were in office on the effective date of the new constitution. The work of the

board has resulted in a clean

the court was given in regards to the integrity of a presidential candidate and his running mate on