



**ELECTION OBSERVATION MISSION
SUDAN, PRESIDENTIAL, GUBERNATORIAL AND LEGISLATIVE, APRIL 2010**

PRELIMINARY STATEMENT

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Executive Summary

The Carter Center commends the Sudanese people for the generally peaceful polling process to date and urges that the remaining stages of counting, tabulation, and posting of results be carried out transparently and accurately. In addition, the limited political opening around the elections should be expanded to ensure respect for Sudan's constitutional human rights and fundamental freedoms, and leaders from all parties should engage in genuine dialogue to address the key challenges facing Sudan.

While it is too early to offer a final overall assessment, it is apparent that the elections will fall short of meeting international standards and Sudan's obligations for genuine elections in many respects. Nonetheless, the elections are important as a key benchmark in the Comprehensive Peace Agreement (CPA) and because of the increased political and civic participation that has occurred over the last several months. Ultimately, the success of the elections will depend on whether Sudanese leaders take action to promote lasting democratic transformation.

Despite their observed weaknesses, the elections are a CPA benchmark and their conduct allows the remaining provisions of the agreement to be implemented.

The electoral process is ongoing with counting and tabulation likely to last several more days, followed by the posting of results. The Center's observers will continue to monitor these processes to their conclusion.

The main findings of the Center's mission to date are as follows:

The April 2010 elections in Sudan were mandated by the 2005 Comprehensive Peace Agreement (CPA) and were envisioned as a critical part of a broader democratic transformation.

Unfortunately, many political rights and freedoms were circumscribed for most of this period, fostering distrust among the major political parties.

In the campaign period and run-up to the 2010 elections, however, there was a limited but important political opening that provided opportunities for opposition parties and civil society to engage in the political process. After a long period of dormancy, Sudanese parties and civic groups across the country began to mobilize.

Most of the opposition parties joined together to demand the reform of laws and the lifting of restrictions of political freedoms and several major parties ultimately withdrew from the election shortly before election day. Although all candidates remained on the ballots, there was little competition in the race for the presidency and reduced competition in other races.

The polling process on April 11-15 was largely peaceful and orderly. Despite confusion and significant logistical challenges, polling staff and voters in most areas displayed remarkable commitment, patience, and tolerance. Voters turned out in good numbers to cast their ballots, but with varying levels of participation across the country. The Sudanese people are to be commended for their civic spirit, pride, and hospitality.

Notwithstanding these generally positive features, Carter Center observers noted important flaws and found that the process fell short of Sudan's obligations and related international standards in a number of respects.

Sudan's legal framework is contradictory and does not ensure adequate respect for essential political rights and freedoms prescribed in Sudan's constitution, including freedoms of expression, assembly, and association.

Although the voter registration process resulted in broad but uneven participation across the country, it was undermined by a series of critical shortcomings. Preliminary lists were not consistently posted for adequate public review, especially in the South, and the status of the final voter registry and list of polling stations remained uncertain. The Carter Center has recently received an electronic copy of the complete list and will attempt to ascertain if any of these changes were designed to assist particular political parties.

On election days, voters faced a range of operational and logistical problems: late

political and economic development of Southern Sudan. On Jan. 9, 2005, the National Congress Party-led Government of Sudan signed the CPA with the Sudan People's Liberation Movement (SPLM), thus ending a 22-year conflict. The CPA stipulated the holding of national elections in Sudan to cement the country's democratic transformation and to put in place accountable governments in northern and Southern Sudan to oversee the January 2011 referendum on self-determination for the people of Southern Sudan. While there have been tentative steps at political liberalization, the CPA's promise of democratic transformation has not been fulfilled. The conflict in Darfur and an ongoing failure to address marginalization in South Kordofan, eastern Sudan, and other regions have also weakened the dividends of peace promised by the CPA.

The Carter Center election observation mission has been in Sudan since February 2008 following an invitation from the leaders of

Statement of Preliminary Findings and Conclusions

POLITICAL BACKGROUND

Sudan held its first competitive multiparty elections 21 years after the National Islamic Front (NIF), the predecessor of the National Congress Party (NCP) overtook power.

the Government of Sudan has committed itself to the protection of a variety of political and human rights essential to the conduct of democratic elections, including freedom of expression, assembly and association.³

least four percent of votes cast in order to be allocated seats. However, given that the seats will be

political parties.²⁰ Throughout the period of observation The Carter Center noted instances in which voter education activities were disrupted by state authorities, particularly in Darfur, because the NEC failed to communicate in a timely fashion with the relevant authorities and ensure that restrictions on their freedom of movement were lifted. Such limitations on the function of these bodies impeded voter education efforts by non-state actors and potentially further limited the information available to Sudanese voters concerning the electoral process.

While some civil society organizations conducted voter and civic education activities, their lack of experience in democratic exercises meant these activities had limited impact. In addition, the institutional weakness of political parties hindered their ability to provide sufficient voter education to

reform or freeze of various security laws. This demand was not accepted by the government, but it did promise to not apply them during the campaign. In addition, the northern opposition parties in a memorandum of March 6, 2010 questioned the lack of transparency, impartiality, and independence of the NEC. The Juba Alliance members withdrew from the NEC-established media council after complaining of bias, although in the final days of the campaign the NEC agreed to increase the number of non-government members. They further complained about the failure of the NEC to place limits on campaign expenditures and thus to remove the vast discrepancies in funds utilized by the NCP compared to the other parties (with the exception of the SPLM). This too was agreed to by the NEC, but with only five days left before voting the gesture was rendered meaningless. The northern opposition parties also complained about voter registration violations, the use of government property for campaigning purposes of the NCP, and demanded that the state of emergency in Darfur be lifted and that the government reach a peace agreement that permitted armed groups in Darfur to participate in the election.

Four of the largest Juba Alliance parties – the SPLM, Umma National Party, Sudan Communist Party (SCP), and the Umma Reform and Renewal Party – announced that conditions did not favor a free and fair election. Although the legal deadline for withdrawal from the elections had passed, parties withdrew their candidacies from the elections in all of northern Sudan, including the presidential race, in the final days of the campaign. Remaining in the race were the Democratic Unionist Party (DUP) and the Popular Congress Party (PCP). This seriously undermined the competitive nature of the election. Names of all candidates remained on the printed ballots.

Although the campaign period was largely peaceful, isolated acts of violence against candidates occurred. A SPLM incumbent candidate for a SSLA seat in Unity state was killed in Southern Sudan, an Umma Party candidate for State Assembly in South Darfur was shot while travelling in a convoy with the Secretary-General of the Umma Party, and a NCP candidate in Khartoum North was killed. No evidence was forthcoming to prove that these crimes were politically motivated.

During the campaign period, in February 2010, the NEC and Sudan's Ministry of Interior issued a circular on campaigning activities that required at least 72 hours notice to authorize any political campaign events held in public venues. The circular was more conservative than the directives issued by the Ministry of the Interior in its September 2009 decision regarding the practice of electoral activities, as the new circular required parties to submit notification of campaigning events held on their own premises. Several political parties appealed to the NEC to permit them to hold election-related activities in public places after notifying the relevant security committees instead of applying for approval and to forego notification for activities on their own premises, but these requests were not accepted. Political parties reported that these regulations were applied inconsistently across the states and that, in practice, parties often had to report to several security agencies rather than a single authority.

The Center observed examples of the Government of Southern Sudan and Sudan People's Liberation Army (SPLA) hindering the campaign of the SPLM-Democratic Change (SPLM-DC), the United Democratic Front (UDF), Southern Sudan Democratic Forum (SSDF) and other opposition parties. In some cases SPLA soldiers were witnessed tearing down the posters of non-SPLM candidates. State authorities in Western Equatoria, Unity State, and Northern Bahr El Ghazal interfered with the holding of rallies by opposition candidates. Security conditions in Darfur and in areas of Eastern Sudan restricted campaigning.

Governors have the power to permit public meetings under the Criminal Procedure Act 1991. Both the Criminal Procedure Act of 1991 and National Security Forces Act of 2009 provide for arrest and

number of smaller parties.

detention without timely judicial recourse.

Efforts were made by former South African Pres

media and the media did not tackle issues considered sensitive that might provoke the government. Numerous newspapers and individual journalists faced court cases and condemnation by the National Press Council, the state press regulator appointed by the Presidency. Another inhibiting factor is that much of the media is directly or indirectly controlled by the government and the NCP or its allies.

Candidates were given equitable access to state radio and television during periods set aside for party broadcasts, but other programming gave disproportionate coverage of time to NCP candidates who also held senior government positions. Two radio stations in Juba were briefly closed down by security agents because of objections to their political broadcasts.

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observe the April 2010 national elections, building upon the Center's long-term monitoring presence in the country that began in February 2008.²⁹ Carter Center observers were present in all 25 of Sudan's states, as well as the district of Abyei, and monitored the pre-count, balloting, and counting phases of the electoral process, with plans to remain in Sudan to observe the tabulation of votes, announcement of results, and post-electoral processes.

By the evening of April 15, observers from the Carter Center visited more than 1050 polling stations across all areas of the country or approximately 6 percent of all polling stations (according to the latest NEC figures). Approximately 51 percent of the polling stations monitored by Carter Center observers were in rural areas while 49 percent of the polling stations were located in urban areas.

In many ways, the Sudanese people are to be commended for their widely peaceful participation in Sudan's first national elections since 1986. Moreover, the NEC deserves credit for administering an extremely complex election, requiring the transport of thousands of tons of materials and the participation of approximately 16,000 candidates on multiple ballots for multiple races in Africa's largest country.

Nevertheless, reports from Carter Center observers provided evidence that a series of technical and political problems compromised the integrity of the ballot for many Sudanese voters across the country. An illustrative sample of some of these logistical issues includes the delay in the arrival of key materials, problems with the indelible ink, misprints and errors in ballot papers, and poor communication between the NEC and SHCs, as well as between SHCs and Polling Centers. Moreover, serious problems with the quality of the voter registry, the uneven use of identification across Sudan, and widespread intimidation severely undercut the inclusiveness and credibility of the national polls, and all three areas will need substantial correction in any future electoral exercise.

Technical difficulties have had a major impact on the acceptability of the polling process leading to the erosion of many of the standard checks and balances which secure the integrity of an election. In many locations the safeguards to prevent multiple voting or fraud were not correctly utilized, reducing voter confidence in the electoral process. A list of issues encountered during the Center's observation mission are summarized in greater detail below:

Ballot Papers

The NEC final distribution list of March 23 determined that polling would take place in 9,650 polling centers containing 16,502 total polling stations. Polling stations were required to be open between the hours of 8am to 6pm over three days, April 11-13. The election timetable indicated that all materials necessary for polling would be delivered to polling centers by April 9.

The start of polling was marred by challenges in the production and distribution of the correct ballot papers and accurate voter lists, presenting the NEC with its biggest logistical and operational challenge. On the first day of polling, April 11, Carter Center observers reported that a substantial number of polling centers were either opening late or not opening at all due to partial delivery or non-delivery of essential materials, particularly ballot papers. In White Nile, observers reported that no polling took place before noon since two sets of ballot papers had to be reprinted on the evening of April 10 and were yet to arrive. In Kauda, South Kordofan, the Center's team observed a widespread problem with the late

29 The following countries were represented on the TCC EOM: Algeria, Austria, Canada, Democratic Republic of Congo, Egypt, Germany, Iraq, Italy, Ivory Coast, Jordan, Lebanon, Liberia, Netherlands, Palestine, South Africa, Somaliland, Switzerland, Tanzania, Tunisia, United Arab Emirates, United Kingdom, United States of America, Zimbabwe.

delivery of voting materials to polling centers, which resulted in 48 out of 51 polling centers not opening on time in the area.

In a significant number of polling centers, particularly in South Sudan, ballot papers for some of the races were either missing or delivered to the wrong location. Observers stated that this was the case in Central Equatoria, Eastern Equatoria, Jonglei, Abyei, Warrap, Unity, Gezira, Kassala, South Kordofan and West Darfur. Despite this problem some polling centers decided to commence polling without these ballot papers, processing large numbers of voters before suspending voting to await delivery of the correct ballots. In a number of instances, ballot papers were incorrectly printed with either candidate having been omitted or the wrong party symbol next to the candidate's name. There were also numerous reports of the delivery of an insufficient number of ba

instances in which voters provided no identification document and other checks from an identifier were not requested. In other cases, certificates of confirmation of identity, presumed to be issued by a local Popular Committee, were accepted without clear verification. At many sites visited, party agents participated in identifying voters with registration slips or voters whose identity appeared questionable.

The team observed many instances of persons who did not have identification (ID) of any kind attempting to vote. The problem was further exacerbated by the observation of Popular Committees issuing ID certifications on a partisan basis. In some cases, notably North Darfur, observers noted that certifications given by popular committees were scribbled on torn sheets of paper without any other form of ID.

In Kassala, Red Sea, White Nile, Nile State, and Darfur observers noted numerous examples of underage voters who were allowed to vote at times in a seemingly organized fashion. In several cases,

Integrity of Ballots

Serialized seals are standard election materials to prevent the tampering of the contents of a ballot box. However the use of seals has been inconsistent across Sudan with observers noting their absence in a number of locations, particularly in Southern Sudan within the states of Lakes, Western Bahr al Ghazal and Unity. In several cases, observers reported incorrect usage of the non-serialized seals upon ballot boxes, including two cases in Lakes State whereby a ballot box of unused ballots was improperly secured and may have been subject to fraudulent ballot box stuffing.

Observers in Northern Sudan have also taken note that green, un-serialized seals, intended to tie bags, were used to secure the voting hatch of the ballot box in several states, exposing them to potential tampering. This usage was observed in South Kordof

presence felt in some polling stations and in one case, intimidated domestic observers. Polling staff was arrested, threatened or beaten up in a number of states, as were party agents and candidates.

The SPLA had a visible presence at polling stations in Wh

accepted, were not implemented on the ground. As no clear details of the constituency delineation were ever published, there was no way to verify the effectiveness of the remedy.

Appeals to the Supreme Court are also provided for against refusal to register candidates and eight such appeals were made regarding candidacy for the presidency, two of candidacy for the presidency of Southern Sudan and sixteen for candidacy for governors.

On polling days a voter, party or candidate could lodge complaints to the head of polling stations. A special form was provided for this purpose (Form 7). The Head of Polling was required to try to resolve the complaint immediately. Requests for a recount could only be made at the polling centers before the declaration of results. There are no provisions provided for an order of a re-aggregation of results, an important omission and a denial of an effective remedy for potential violations in the aggregation process.

After the declaration of provisional results only a candidate or party can appeal the result to the Supreme Court and must do so within seven days. The Court must decide the appeal within fourteen days.

While interlocutors have expressed concern regarding the independence and transparency of the judiciary, to date it has carried out its functions in a timely manner in accordance with the law. The Carter Center will continue to observe the complaints and appeals process until the declaration of final results.

CIVIL SOCIETY AND DOMESTIC OBSERVATION

An international commitment that every citizen has the right to participate in the public affairs of their country establishes the right of all citizens to freely participate within civil society and domestic observation organizations.³⁴

The Carter Center supported the work of civil society groups in both Northern and Southern Sudan to observe the polls. Election monitoring by non-partisan civil society organizations is an important way for citizens to take part in democratic processes, serves to safeguard the process, and provides important information regarding the integrity of the process as well as recommendations for improving the process.

Northern Sudan had one of the most developed civil societies in Africa and the Middle East. Southern Sudan, meanwhile, was weak and dominated by tribal chiefs and churches. The Organization of Humanitarian and Voluntary Work Act of 2006 has been particularly detrimental to the development of civil society in Northern Sudan. According to the act, non-governmental organizations must obtain the approval of the General Registrar of Organizations, who is appointed by the president. In order to be accredited as a domestic observer organization, NGOs had to have previously registered.

The election gave rise to the creation of several domestic observation networks in both northern and southern Sudan. The most active were TAMAM, al-Khatim Adlan Center for Enlightenment and Human Development, the National Civic Forum, and the Sudanese Group for Democratic Elections (SuGDE) in the North and the Sudan Domestic Election Monitoring and Observation Program (SuDEMOP) and the Sudanese Network for Democratic Elections (SuNDE) in the South. Together these organizations deployed approximately 8,000 observers across Sudan. According to the NEC, 10,286 Sudanese observers received accreditation to observe the elections. The Carter Center welcomes the efforts on the

34 International Covenant on Civil and Political Rights, Art. 25(1)

part of the electoral authorities to open the process to Sudanese observers, who were present during the polling, in 82 percent of the centers visited by TCC international observers.

Despite this opening, civil society organizations experienced significant challenges in the accreditation process as a result of delays within the NEC, a lack of clarity in the accreditation requirements, inconsistency in the way in which requirements were applied, and the late release of accreditation badges to organizations. Furthermore, some national observers experienced obstacles in access to the polling process, although these obstructions appear to be localized and not systematic.