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**VOTE IN SOUTH KORDOFAN IS PEACEFUL AND CREDIBLE, DESPITE CLIMATE  
OF INSECURITY AND SOME IRREGULARITIES**

**The Carter Center Election Observation Mission in Sudan**

Despite a climate of heightened insecurity and instances of procedural irregularities that removed an important safeguard of the process, South Kordofan's elections were generally peaceful and credible. The voting, counting, and results aggregation processes were conducted in a nonpartisan and transparent manner under intense scrutiny from leading political parties.

The official results announced by the National Election Commission (NEC) and State High Election Commission (SHEC) indicate a closely contested race between the two dominant parties. Challenges and complaints about the process should be pursued through the formal legal channels prescribed by law, and the resolution of any disputes should ensure timely decisions based on a thorough and transparent review of evidence. The NEC should use the official database developed to compile the preliminary results. This process appears to have been bypassed by the SHEC, thus removing an important safeguard that can highlight anomalous results. Further, the Carter Center urges the NEC to post the figures from each polling station on its website to allow party agents to conduct a full analysis of the results.

**Climate of Insecurity.** Tension among voters was high due to general insecurity in many parts of the state during the months preceding the polls and outbreaks of fighting in two areas on the eve of the elections. Speeches by leaders of the main parties during the campaign claiming that an electoral victory by their party could only be stopped by fraud committed by the other side served to heighten voter fears. In addition, several villages were closed to activists of one or another party during the campaign period. The presence of regular armed forces and militias from the major political forces is common throughout the state. Despite the fact that the armed forces contributed to providing election security, the buildup of troops with political party loyalties heightened voter fears that fighting would occur over the results. It is imperative that future elections be held in an open environment, free from intimidation from state or other armed forces in order for Sudan to fully meet its international obligations to guarantee universal suffrage, and that elections allow for the genuine will of the voter to be expressed.

**Polling and Counting.** Although polling staff were observed to be impartial, The Carter Center noted that poor training led to lapses in voter identification procedures. Polling staff failed to follow procedures for checking voters' hands for ink and asking voters to provide identification at many polling centers across the state, removing an important safeguard against manipulation and multiple voting. Despite these lapses, Carter Center observers only reported one clear instance of multiple voting. However, Carter Center observers did report a small number of cases where party agents exploited this oversight and distributed voter registration slips of absent voters to unregistered citizens, thus facilitating illegal proxy voting.

The SHEC implemented an inclusive policy for accrediting party agents and observers, which resulted in many party agents for both the Sudan People's Liberation Movement (SPLM) and National Congress Party (NCP) present in polling stations. Carter Center observers also reported several instances where unaccredited party persons were present in polling stations. In about 15 percent of polling stations visited by Carter Center observers, party agents were inappropriately involved in the voting process, including directing parts of the process, and in some cases accompanying voters into the voting booth. Most of the instances involved SPLM agents. In a few exceptional instances, agents from both leading parties were reported to have directed voters how to vote and/or marked ballots for them. Although electoral procedures allow illiterate voters to request assistance from a person of their choice to cast their ballot, some of these instances of party agent involvement clearly violated procedures and undermined the secrecy of the ballot. Improved voter education should be ensured for future elections to address this problem and decrease the high number of invalid ballots cast.

Although no direct intimidation of voters was reported by Carter Center observers during the elections, the Center received a few credible reports of intimidation of Sudanese domestic observers.

Notwithstanding these problems, observers rated the process positively in 87 percent of polling stations visited and noted that the conduct of the election was largely improved over last year.

**Tabulation and Results.** The results tabulation proved to be the most contentious part of the process, despite the SHEC's efforts to make the process as transparent as possible by opening results bags in front of all party agents and reading results out loud. The NEC developed a system whereby parties and voters could lodge complaints regarding the polling process on a Form 7 to a polling committee, which could be appealed to the SHEC and/or NEC. Although these complaints were sent to the SHEC, there were no specific regulations in place that mandated how they should be handled.

The SPLM raised a number of complaints to the SHEC during polling. However, as these claims were mostly unsubstantiated, they proved impossible to investigate and were thus dismissed by the SHEC. The party then raised these complaints during the opening of results, demanding that they be addressed prior to the tabulation so that affected results could be annulled. However, many of these complaints were of a minor nature, due to poor form completion. The SPLM delayed the tabulation process by several days with repeated walk outs over the issue citing mistrust in the election authorities. This eventually caused the NEC and SHEC to decide against using its discretionary executive authority to decide complaints and instead referred all complainants to the court as provided for in the National Elections Act (NEA).

The NEC's election results indicate that the NCP has won both the governorship and a majority in the state legislature. In the race for governor, Ahmed Haroun received 201,455 votes over Abdul Aziz al Hilu with 194,955 votes. The NCP won 33 seats in the legislature to SPLM's 22 seats.

Although both parties polled fairly evenly overall, SPLM support was in a smaller area, where it won heavily, whereas the NCP won more constituency seats but with a lower margin.

In spite of the procedural lapses, The Carter Center did not observe systemic irregularities that would invalidate the results. According to the legal framework, parties have one week from the official announcement of results, i.e. May 16-22, to file formal complaints with the Supreme Court. The court should review and adjudicate claims within two weeks of receipt, or by June 5.

**Observer Deployment and Methodology.** The Carter Center monitored the entire process of the South Kordofan gubernatorial and state legislative elections from the start of voter registration to the announcement of the preliminary results, with four roving long-term observers and a core team of six analysts. In total, 14 short-term and long-term observers and additional core staff observed polling, counting, and the tabulation of results. Observers were deployed in teams of two around the state, making 165 visits to polling committees in 26 of the 32 constituencies over the course of the election. Although Carter Center observers visited many areas of the state, the observation mission was partially restricted in its movements due to security concerns in certain areas of the state.

The observation mission represents 14 different nations including Denmark, Egypt, France, Germany, Hungary, Italy, Kenya, the Netherlands, Norway, Sweden, Uganda, the United Kingdom, the United States, and Zimbabwe. The Center has maintained a presence in South Kordofan since November 2009, initially observing voter registration for the April 2010 elections. The Carter Center has released statements on voter registration and the nominations and campaign period, which can be found on the Carter Center's website, [www.cartercenter.org/](http://www.cartercenter.org/).

The Carter Center assesses electoral processes in Sudan based on Sudan's obligations in the 2005 Comprehensive Peace Agreement, Sudan's Interim National Constitution, the National Elections Act, the Political Parties Act, as well as Sudan's international treaty obligations for democratic elections and human rights. The objectives of the Center's observation mission in South Kordofan are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all in South Kordofan, and demonstrate international interest in the electoral process.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 35 election observation groups.

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**THE CARTER CENTER INTERNATIONAL ELECTION  
OBSERVATION MISSION TO SUDAN**

**SOUTH KORDOFAN GUBERNATORIAL AND STATE LEGISLATIVE ELECTIONS,  
MAY 2011**

**PRELIMINARY STATEMENT**

**Statement of Preliminary Findings and Conclusions**

Despite instances of intimidation and clashes in the lead up to the elections, and some problems with procedural irregularities, the polling and counting processes for the South Kordofan state elections were conducted from May 2-7, 2011, in a generally peaceful and credible manner. These postponed elections represented the final part of the April 2010 general elections mandated by Sudan's Comprehensive Peace Agreement (CPA), and included races for governor and state legislative assembly.<sup>1</sup> With the exception of a few localities, turnout among registered voters was strong and voters waited patiently and peacefully despite long lines on the first day.

As reported in the Carter Center's March 29 statement on the voter registration process, which took place between Jan. 20 and Feb. 12, the process did not allow all eligible citizens sufficient time and means to register. There were insufficient mobile registration teams and inadequate voter information about when and where to go to register. This contributed to approximately 100,000 fewer registered voters than for the April 2010 elections.

The process as a whole suffered from an environment of insecurity. While the campaign period was contested by multiple political parties, it was marred by several instances of intimidation where armed groups restricted campaigning or tried to prevent rallies of all three gubernatorial candidates. Several villages were closed to campaigners from one or other party. Speeches by leaders of the main parties claiming that the only way they could not win would be if fraud had been committed by the other side exacerbated the climate of insecurity and voters' fears. In addition, full scale clashes between armed forces in two areas on the day before polling undoubtedly affected voter turnout. Although there were no reports of direct voter intimidation on polling days, the increase of armed forces in the area served to heighten tensions.

In spite of the climate of insecurity, the polling process was conducted in an impartial and transparent manner in the large majority of polling station visited by Carter Center observers. However, Carter Center observers noted that poor training led to lapses in voter identification procedures that were sometimes exploited by party agents. Polling staff failed to check voters' hands for ink or ask for

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<sup>1</sup> Under Sudan's mixed electoral system, in addition to the governor's position, voters cast three ballots for the assembly, including a majoritarian geographical constituency ballot, a women's list (25 percent of the assembly), and a party list (15 percent of the assembly).

voter identification at 58 percent of polling centers visited, thus removing an important safeguard against proxy or multiple voting. Party agents were occasionally reported distributing voter registration slips of absent voters, facilitating illegal proxy voting on their behalf. Despite these lapses, Carter Center observers only reported one clear instance of multiple voting.

The State High Election Commission (SHEC) had an inclusive policy for accrediting party agents and observers. However, this sometimes led to several agents for each main party being present in a polling committee. Carter Center observers also reported several instances where unaccredited party persons were present in polling stations. In about 15 percent of polling stations visited by Carter Center observers, party agents were inappropriately involved in the voting process, including administering parts of the process, and in some cases accompanying voters into the polling booth. Most of the instances involved agents of the Sudan People's Liberation Movement (SPLM). In a few exceptional instances, party agents were reported to have directed observers how to vote, and/or marked ballots for them. Although electoral procedures allow illiterate voters to request assistance from a person of their choosing to cast their ballot, some of these instances of party agent involvement clearly violated procedures and undermined the secrecy of the ballot. Improved voter education should be ensured for future elections to address this problem and also to decrease the high number of invalid ballots cast.

The results tabulation proved to be the most contentious part of the process, despite the SHEC's efforts to make the process as transparent as possible by opening and reading each result to all party agents present. The National Elections Commission (NEC) instigated a system whereby parties could raise complaints at a polling committee and unresolved complaints would be addressed by the SHEC, or eventually the NEC. However, the SPLM used this to excess, lodging many complaints, most of a minor nature and unsubstantiated by proper documentation, which prevented authorities from conducting a full investigation. The party demanded that complaints be resolved before accepting the results from these polling centers where complaints had been lodged and that polling committee results be revoked on occasion for procedural errors. When the SHEC refused, they delayed the process by walking out twice. This caused the National Election Commission (NEC) and SHEC to decide against using their discretionary executive authority to decide complaints, and instead refer all disputes to the court as provided in the National Election Act (NEA).

### **Political Background to South Kordofan Elections**

During the civil war, Yusuf Kuwa, from the Sudan Peoples' Liberation Army (SPLA), fought from the Nuba Mountains under the banner of 'New Sudan' for the development and recognition of the cultural diversity of the peoples who live in the mountains and a leading role in government. In response, Misseirya allies of successive Khartoum governments were organized as militias by the Sudanese Armed Forces (SAF) to carry the war to the south. As a result, South Kordofan suffered directly, in terms of loss of lives, and indirectly, in terms of damage to property and loss of development opportunities. Recognizing this, in addition to the Comprehensive Peace Agreement (CPA), which was signed on January 9, 2005 by the Government of Sudan (GOS) and the SPLM and marked the official end of the 22-year North-South civil war in Sudan, the CPA partners agreed to adopt the Southern Kordofan/Nuba Mountains and Southern Blue Nile Protocol to address the particular problems of these northern states.

The protocol mandated interim power sharing arrangements within the state, joint security arrangements, central state institutions with commensurate power as other states and raising the standard of living to that of other northern states. Additionally, the protocol calls for a popular consultation by which the people of Southern Kordofan would assess the implementation of the CPA,

identify its shortcomings, and allow for renegotiation of these arrangements with the central government in Khartoum. This renegotiation is seen as a key factor to the people of South Kordofan. Since the results of the popular consultations are discussed by the state legislature and proposals are put forward by them to the central government, the CPA mandates that they are conducted after legislative elections of a state government and before the end of the CPA on July 9, 2011.

Although national elections were held in April 2010, 18 months later than envisaged by the CPA, gubernatorial and state legislative elections in South Kordofan were further postponed due to SPLM objections to the state census. The new census increased the state's population by 1,000,000 and was accepted by all the parties, paving the way for elections on May 2-4, 2011, but leaving a very short period of time for the popular consultations.

Under the CPA's interim power sharing arrangements, the governorship alternated between the NCP and SPLM, with the NCP holding 55 percent of the legislative seats, the SPLM holding 45 percent, and no seats for other parties. Despite the contentious relations between the parties, NCP Governor Ahmed Haroun developed a workable relationship with his deputy and SPLM state leader, Abdel Aziz al Hilu, which reduced tensions and brought some development to the state. However, the Juba and Khartoum leaderships of the SPLM and NCP became deeply invested in the elections, both financially and politically, which increased political and security tensions. Both the SPLM and NCP told their supporters that they would win the election and could only lose as a result of electoral malfeasance by the other party. This mentality contributed to a climate of mistrust and insecurity that has permeated the electoral process. The desire of local leaders to control the popular consultations through winning the majority of state legislature seats adds yet another layer to the tensions being caused by the SPLM and NCP leaderships.

### **Security Background to the South Kordofan Elections**

The South Kordofan elections of May 2011 took place against a complicated and fluid security situation. The legacy of the war, including the division between a SPLM constituency of self-identifying Africans in the Nuba Mountains and NCP support from self-identifying Arabs in the rest of the state, the presence of a long border with Southern Sudan, and oil deposits in disputed border areas makes South Kordofan a politically volatile area. Misseirya nomads from the west of the state have traditional grazing paths through Abyei and thus are intimately linked to the ongoing violent conflict in that area. As a result, numerous armed forces and militia (usually Popular Defense Forces or PDF) are present, making South Kordofan one of the most heavily armed states in the region.

The South Kordofan Protocol and a complementary protocol on security arrangements called for a reduced SAF presence in the state, for SPLA forces to be removed after the Joint Integrated Units (JIUs) were deployed, and for all other armed groups (OAGs) to be disarmed and integrated into either the SPLA or SAF. None of these requirements has been fully met. The presence of regular armed forces and militias is common throughout the state and there is a constant fear that they could be activated during a political crisis. This is particularly the case with militias whose numbers, deployment and command are usually unknown.

Despite responsibility for campaign security resting with the police, campaign functions were often attended by different armed groups, ostensibly to provide security, which led to fears of increased presence of different armed forces within the state.<sup>2</sup> Observers noted several large convoys of central

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<sup>2</sup> There was, however, an unofficial agreement between the SPLM and NCP which permitted the JIU to provide security.

reserve police throughout the election period and fearful reactions from citizens. Rumors spread in several areas that forces were preparing for a fight if the results did not favor their party.

Instances of non-election related violence created further insecurity. Since before the start of the campaign, Misseirya militias have been stopping vehicles on roads within Southern Kordofan going to Abyei town and the conflict over Abyei has produced a series of confrontations between Misseirya forces and heavily armed Ngok Dinka policemen north of Abyei town. On the eve of the start of polling, on May 1, fighting between the SPLA and SAF in Umm Belai just north of Abyei led to the deaths of approximately 14 soldiers, although there is no indication that the conflict was election related. On the same day intra-tribal fighting broke out in Beleela, between Fula and Mughlad in the West, resulting in further deaths.

Although incidents of election-related violence were few, one was particularly serious. On April 19, a Baggara Popular Defense Forces (PDF) militia killed an estimated 29 civilians and burnt down a village in El Feid, in the eastern Nuba Mountains, on the same day Aziz al Hilu held a rally in the area. The sense of ‘no go’ areas and general insecurity created by such incidents and the resulting build-up of forces undoubtedly restricted citizens’ sense of freedom to vote in affected areas.

Police and JIU members provided adequate security for the polling; officers were observed at nearly all of the polling committees visited by Carter Center observers and were mostly seen to be behaving in accordance with procedures. Despite this generally appropriate behavior of security, the visible build up of armed forces in the state during the polling process contributed to heightened tensions and some voters found it to be intimidating.

In spite of the overall insecurity, the polling process was largely peaceful and transparent. A few isolated incidents of intimidation were worthy of note: According to the local police chief, polling committee #7 in Askout constituency was closed for approximately five hours on May 3 due to militia forces, and then the SPLA, taking control of it. Jaloud, south of Dilling was also a problem area. Carter Center observers were stopped by armed men from entering the area until they explained their work and Sudanese observers from the National Civic Forum (NCF) reported that they were forced off the road and beaten in the same area. Even though these incidents were exceptions to the norm, any such intimidation, pressure, or violence against election observers is unacceptable and against Sudan’s obligation to ensure the security of the person. Going forward, it is important for the NEC and government officials to investigate any cases brought forward to the full extent of the law, and to ensure that the state honors its obligations.<sup>3</sup>

### **Legal Framework and Election System**

The CPA constitutes the key legal framework for Sudan. It is supplemented by the Interim National Constitution (INC) and the NEA. In addition, through accession to and ratification of international treaties<sup>4</sup> and incorporation of internationally recognized obligations into Sudan’s Constitutional Bill of Rights, the GOS has committed itself to the protection of a variety of political and human rights

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<sup>3</sup> International Covenant on Civil and Political Rights (ICCPR), art. 2 (3).

<sup>4</sup> Sudan has acceded to the ICCPR (March 18, 1986), the International Convention on the Elimination of Racial Discrimination (ICERD) (March 21, 1977), International Covenant on Economic, Social and Cultural Rights (March 18, 1986), and ratified the Convention on Rights of Persons with Disabilities (April 24, 2009), the African Charter on Human and Peoples’ Rights (ACHPR) (Feb. 18, 1986), the Arab Charter on Human Rights (May 22, 2004), and the United Nations Convention against Corruption (UNCAC) (Jan. 14, 2005). In addition, Sudan is a signatory to the African Charter on Preventing and Combating Corruption (June 30, 2008), the African Charter on Democracy, Elections and Governance (June 30, 2008), and Protocol 1 of the African charter on Human and Peoples’ Rights on the Rights of Women (June 30, 2008).

essential to the conduct of democratic elections, including freedom of expression, assembly and association.<sup>5</sup>

The National Elections Act was adopted by the National Assembly on July 7, 2008, and was signed by President Bashir on July 14, 2008. The law provides the basic legal framework for conducting generally credible elections that are supported by the broad protections for human rights established in the Constitutional Bill of Rights. It allows for citizens who have reached 18 years of age and are of sound mind, and are included in the voter registry, to vote, which is in line with international norms. However, the law also requires residents be in their geographical constituency for a period not less than three months before the date of closure of the register.<sup>6</sup> This clause directly affects the enfranchisement rights of nomadic communities.<sup>7</sup> Although the legal framework enshrines the equal treatment of candidates and prohibits the use of administrative resources in campaign activities, provisions on candidate nominations, particularly on establishing mechanisms for verification of the lists of supporters for nominations, auditing of campaign expenditures, as well as complaints and appeals procedures, need to be further expanded to ensure the integrity of the process.

The electoral system calls for executive elections (president of the Republic of Sudan, president of Southern Sudan, and governors) and three levels of legislative elections (the National Assembly, the Southern Sudan Legislative Assembly, and the state legislative assemblies). Gubernatorial elections are conducted through simple majoritarian contests, while elections to all assemblies use a combination of majoritarian and proportional representation. Sixty percent of seats are designated for single member geographical constituencies and 40 percent are elected from closed party lists, of which 25 percent are reserved for women and 15 percent for political parties.<sup>8</sup> For the seats chosen by both the women's list and the party list, a system of proportional representation is applied with a four percent threshold requirement.

The elections in South Kordofan were a necessary step in ensuring that a democratically elected government is in place in the state to administer the popular consultations, a critical CPA benchmark. The State Legislative Assembly comprises 32 constituency seats, 14 seats elected from the women's list and eight from the party list. Voters were presented with four different ballots in a given polling station to vote for governor, geographical constituency, women's list, and party list.<sup>9</sup>

## **Election Management**

Under the NEA, the NEC has overall responsibility to conduct the election. There are three tiers of election management below this: the SHEC, Geographical Constituency Officers (GCOs) in each of the 32 demarcated constituencies, and 666 polling committees each running a polling station.<sup>10</sup>

Staff at all levels are appointed, rather than nominated. Even though political contestants expressed an increased confidence in the performance of the SHEC over the April 2011 national elections, and

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<sup>5</sup> The ICCPR, art. 25, requires in part that "Every citizen shall have the right and the opportunity... (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors." Further, the United Nations Human Rights Committee (UNHRC), General Comment 25, paragraph 12 has established that, "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected."

<sup>6</sup> NEA, art. 22(2).

<sup>7</sup> ICCPR, article 25(b) notes that the right "to vote... shall be by universal and equal suffrage".

<sup>8</sup> NEA, art. 31.

<sup>9</sup> With an exception of Constituency # 30. There was only NCP candidate running on constituency list, therefore the ballot was withdrawn and the candidate was declared as elected.

<sup>10</sup> 555 polling centers were established but some were subdivided into two polling committees due to large numbers of registered voters.

Carter Center observers did not detect signs of bias in their actions, SPLM representatives expressed deep mistrust of the electoral body, accusing them of being pro NCP. The Carter Center recommends that the GOS consider changing this in the future to a more open and transparent nomination process so that election staff are perceived as impartial consistent with requirements of the NEA.<sup>11</sup>

Polling committee members were trained in a three-step cascade process. The NEC sent trainers to train all GCOs. The GCOs then trained the chair of each polling committee, who in turn trained the members of the polling committee. Although the time allotted for training was sufficient, the fact that only one electoral official received training at each of the first two levels of cascading training increased the possibility of procedural misunderstandings being replicated throughout the cascade.

The NEC took several steps to improve confidence in the electoral process. A workshop was held on April 13-14 by visiting NEC personnel for SHEC members, political parties, state police and civil society organizations. The workshop was aimed at improving the transparency of the process and raising confidence in the election management. Occasional forums were also held by the SHEC with political party representatives, to update them on electoral preparations and security planning. While these efforts are applauded by The Carter Center, the NEC itself failed to respond to observer requests for periodic meetings to answer questions on the process. The Center recommends that the NEC provide better public outreach and be more accessible for future elections.

The NEC also improved some election safeguards from the 2010 elections. In particular, the ballots were printed in Dubai under international and NEC supervision and contained three separate anti-counterfeit measures in their design. Following printing they were kept secure to avoid fraud. The ink procured to ink voters' fingers was of higher quality and lasted for a longer duration. Safeguards used in both elections include the use of numbered seals on ballot boxes for overnight storage, tamper evident bags for the transfer of results protocols, and signed handover forms at all stages of materials transfer.

### **Voter Registration**

Voter registration was conducted from Jan. 20-Feb. 12, 2011. The NEC initially planned to update the electoral registry used in April 2010, but initiated a new registration exercise in response to requests from the SPLM and other opposition parties. An accurate voter registry is vital to ensure equal suffrage and for safeguarding against multiple voting. Although the NEC should be commended for conducting a new voter registration, planning for the registration exercise failed to take into account the resources and voter education necessary to register all eligible residents of South Kordofan.

Registration was conducted by 110 mobile teams, accommodating 1,463 registration centers. As a result, some 642,555 people were registered, which is approximately 100,000 voters lower than were registered in South Kordofan for the April 2010 national elections.<sup>12</sup>

The Carter Center deployed six observers who visited 67 registration centers over the course of the registration period. Carter Center observers reported that the majority of the voter registration centers observed implemented their duties in a technically sound manner. Nonetheless, there were several deficiencies in administration that damaged the integrity of the process. Overall, the Center concluded that voter registration was conducted in a peaceful environment and registration centers

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<sup>11</sup> NEA, art. 18(2), requires that the SHEC is both non-partisan and impartial. However, the requirement is not imposed when appointing polling committee members.

<sup>12</sup> Moreover, According to the June 2010 census, there are approximately 1,172,406 eligible voters in the state.

generally operated without major impediments.<sup>13</sup> A report on the voter registration process was released by the Carter Center on March 29 and is available at [www.cartercenter.org](http://www.cartercenter.org)

Carter Center observers reported several instances in which staff failed to correctly follow procedures, such as failing to ask where the citizen was residing (in 55 percent of centers visited) or their length of residence in the area (in 72 percent of registration centers) and not asking if they had registered in another area (in 78 percent of centers). These procedures pertain to eligibility requirements and provide safeguards against multiple registrations. Additionally registration procedures lacked a safeguard against multiple registrations such as inking registrants' fingers. The combination of lacking one safeguard and inconsistent application of the other undermined Sudan's commitment to protect equal suffrage.<sup>14</sup> Carter observers assessed that the deficiencies were primarily caused by negligence, poor training and low literacy rates.

Carter Center observers were particularly concerned about the relatively low amount of citizens registered over the 20 day process. While it is not possible to determine the exact reason for lower than anticipated voter registration, the lack of preparation time caused by the decision to conduct a full registration rather than update the existing registry had an impact on the efficiency of the process. The number of mobile teams deployed to cover all registration centers was insufficient to accommodate all estimated eligible voters and communication on where and when the teams would be located was lacking. Voters who registered in 2009 were uncertain whether they had to re-register.<sup>15</sup>

Against the background of these deficiencies, the Center urged the NEC and authorities to take concrete steps in preparation for polling in South Kordofan to ensure as many registered voters as possible had the information and resources needed to cast their ballot in a genuine, credible election.

Despite the low registration figures, the final voter registry was accepted by all political parties. Few official complaints were filed with the NEC and the SHEC on the process. Most notably, a petition filed by SPLM and seven opposition parties alleged the wrongful inclusion of 38,374 names in the electoral register in 20 constituencies as well as the removal of 20,044 voters from 12 constituencies.<sup>16</sup> As a response to these grievances, the NEC sent a technical team to South Kordofan to investigate. As a result, some 16,000 names were removed from the voter list in Mughlad. However, in its official response to the complaint on March 6, the NEC stated that it found no evidence of forgery. The Carter Center commended the NEC's responsiveness to these grievances and its efforts to provide an effective legal remedy but criticized the lack of transparency on the adjudication and investigation of the complaints in its March 29 report on voter registration.<sup>17</sup>

## **Candidate Nominations**

The ability to run for office and to nominate candidates for elections is extended to both political parties and eligible voters as independent candidates, thus supporting the right to participate in

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<sup>13</sup> There was one disturbance at a registration center in Alsammah East where shots were fired. The SPLM demanded that the chairperson be fired while the NCP claimed that the SPLM had caused the disturbance, The SHEC declined to dismiss the chair and asked the police to investigate.

<sup>14</sup> ICCPR, art. 25(b); UN, Universal Declaration of Human Rights (UDHR), art. 21(3).

<sup>15</sup> An SPLM party agent in Rashad noted that the change in start time of voter registration was not addressed on NEC posters and limited awareness has been conducted to deliver the corrected message to eligible registrants.

<sup>16</sup> Sudan Communist Party, Democratic Unionist Party, National Umma Party, National Party, Justice Party, Popular Congress Party, and Sudanese Ba'ath Party, complaint on Feb. 28.

<sup>17</sup> ICCPR, art. 2(3); ACHPR, art. 17.

political life in accordance with international obligations.<sup>18</sup> Candidate nominations were administered credibly by the SHEC and the NEC. Nominations had to be submitted between March 11-17 and withdrawals made before April 3 to avoid appearing on the ballot. All nominations were made in accordance with the guidelines set out by the NEA.<sup>19</sup>

Eligibility requirements for gubernatorial and state legislative positions differed. Candidates for governor must be Sudanese by birth, at least 40 years old, literate and of sound mind, as well as supported by the signatures of 5,000 registered voters. In addition, candidates must pay a deposit that is returned if the candidate receives at least 10 percent of the valid votes. Candidates for the legislative assembly have to be a Sudanese citizen, at least 21 years old, literate and of sound mind. There is no requirement to be a Sudanese by birth. However, in both cases, individuals who have been convicted of an offence involving dishonesty or moral turpitude are denied candidacy. As noted in the Carter Center's statement on the electoral process on April 29, this restriction may be too broad or ambiguous, and could allow a relatively minor crime to deprive potential candidates from the right to participate. Although international obligations do not define the severity of crimes that could disbar candidates, The Carter Center recommends that Sudan further define this restriction based on the length of sentence or type of crime in order to remove any possible bias in the application of this provision.<sup>20</sup>

Five candidates initially announced their intention to run for the position of governor in the Southern Kordofan state election: Ahmed Haroun, the present governor and leader of the South Kordofan NCP; Abdel Aziz al Hilu, the present deputy governor and leader of the South Kordofan SPLM; Makki Belai, leader of the Justice Party; Alzahir Khalil Hamouda, on behalf of the Umma Party; and Telefon Kuku, formerly SPLM and SPLA and running as an independent candidate. Makki Belai and Alzahir Khalil announced their candidacies, but subsequently withdrew from the race on the grounds that political and security conditions did not favor a free and fair election.

The contest for the state legislature included 14 parties fielding candidates for the constituencies, along with eight independent candidates. Despite the inclusion of many parties, the race was still dominated by NCP and SPLM, which fielded candidates in 32 and 31 of the 32 constituencies respectively, followed by the Umma party with candidates in 14 constituencies. For the party lists, six parties each nominated the maximum eight candidates including SPLM, NCP, Democratic Union Party Original, Democratic Union Party, the Muslim Brotherhood and National Umma Party. All of these, apart from the Muslim Brotherhood, also fielded the full 14 candidates for the women's list. The Popular Congress Party (PCP) announced on April 21 that it would boycott the state assembly elections.

Candidate withdrawals in constituency #30 resulted in a lone NCP candidate remaining in the race, who was endorsed by the NEC as the winner before the elections began.<sup>21</sup> The withdrawal of the SPLM candidate in this constituency two days before the deadline caused accusations by the SPLM that the NCP had bribed him. The candidate himself was not available for comment.

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<sup>18</sup> ICCPR, art. 25(a).

<sup>19</sup> NEA, arts. 41, 52.

<sup>20</sup> UNHRC, General Comment 25, para. 15, provides that any restrictions on the right to stand for election must be justifiable on objective and reasonable criteria.

<sup>21</sup> NEA, art. 51.

## The Campaign Period

While some aspects of the campaign period included open and competitive elements, the overall atmosphere was marred by the heavy deployment of security forces around the state, several instances of intimidation of campaign supporters, and the occasional use of inflammatory campaign rhetoric. Carter Center observers also reported the SPLM and NCP appear to have used state resources to further their campaigns. In addition, the restrictions on Telefon Kuku limited the inclusiveness of the campaign. Positive elements of the campaign period included several large rallies by the two main parties, a proliferation of campaign posters contesting the various seats, and the allocation of free radio time by the SHEC and its use by candidates.

The right of individuals to participate in public affairs, including the establishment of political parties and participation in campaign activities, is protected by international principles and fundamental electoral rights.<sup>22</sup> Per international obligations, political parties and candidates must be granted, on an equal basis, the freedom to seek, receive and impart information. In this respect, candidates shall have the freedom to convey their message to voters and administrative action, and neither violence nor intimidation should bar parties/candidates from freely presenting their views.<sup>23</sup> While the state has an obligation to ensure equal campaign conditions, participants of elections are also required to pursue fair campaign rules and refrain from using state resources.<sup>24</sup>

According to the NEA, the campaign period was to last for 30 days, ending 24 hours prior to the election to allow a cool down period. However, due to delays resulting from the late finalization of the voter registry, the campaign period started three days late on April 4 and lasted until May 1, eliminating the cool down day. Unfortunately, the one-day extension of the campaign period was not well-publicized by the SHEC and in many constituencies observers reported candidates and parties did not take advantage of the final day.<sup>25</sup>

Although the two main parties were able to conduct their campaigns widely in the state, Carter Center observers noted several incidents of intimidation and obstruction of campaigning, particularly when the parties campaigned in their opposition's traditional stronghold. In one instance in Kauda, observers received credible reports that a convoy supporting Governor Ahmad Haroun (not present) was stopped for two hours by unidentified armed forces before being allowed to enter town. When Abdul Aziz al Hilu campaigned in Mughlad in western South Kordofan on April 21, five armed men told the crowd to disperse. Although the situation was resolved by SPLA forces, rather than the JIU, the rally was considerably shortened by the incident. Similar instances of attempts to block attendance at Aziz al Hilu's rallies were reported by the SPLM in Mereim and Debab in the same region. The large numbers of armed forces and militia in the state was intimidating, and on occasion posed a direct threat to those active in the campaign. As noted earlier, the most serious of these incidents occurred on April 13 when, after Aziz al Hilu campaigned near his home village of El Feid, clashes erupted between the local PDF and SPLA resulting in the deaths of an estimated 29 people and the burning of hundreds of homes. Several other incidents of intimidation or prevention of campaigning were reported to observers.

Campaign organizers for independent gubernatorial candidate Telefon Kuku, who has been detained for more than 2 years without formal charges and a trial, complained of intimidation by SPLM

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<sup>22</sup> ICCPR, art. 25(a); ICERD, art. 5(c); UNHRC General Comment 25, para. 26.

<sup>23</sup> ICCPR, art. 19(2).

<sup>24</sup> UNCAC, art. 13; African Union Convention on Preventing and Combating Corruption, art. 4(d).

<sup>25</sup> In fact the SPLM submitted a complaint about campaign rallies due to be held on 1<sup>st</sup> May in Dilling which was upheld leading to inconsistencies in the treatment of the campaign period.

against campaign staff and supporters in his home area of Buram. While such reports were difficult to verify, it is clear that Kuku's campaign was strongly curtailed on several fronts. With Kuku unable to run his own campaign due to his detention, his supporters organized a mass rally for him on April 21, but he was reportedly prevented from speaking to the crowd by telephone. As noted in the Center's statement on April 29, the GoSS failed to protect his right to campaign and be elected, which should only be circumscribed when there are objective, reasonable criteria.<sup>26</sup>

The Carter Center was concerned with some of the rhetoric used by candidates and political party members during the campaign period to mobilize their supporters. At times, this was highly inflammatory and citizens frequently reported increased fears following these speeches. Of particular note were the comments made by President Omar al Bashir at rallies held for Ahmed Haroun in Mujlad, Babanoosa, Fula and Kadugli from April 26-28, which implied that the NCP would be ready to return to war in South Kordofan if the SPLM did not accept the results of the election. Statements of this nature, which cast the two political parties in highly adversarial and aggressive terms, run counter to Sudan's commitment to provide security of the person.<sup>27</sup> Political parties should eschew all forms of violence and intimidation and refrain from using inflammatory campaign rhetoric.

While Article 65 of the NEA ensures the right of equal access to all campaigners, it does not set any limits on campaign expenditures, thereby reducing the competitiveness of smaller parties. Thus, unsurprisingly, the NCP and SPLM have dominated campaigning in South Kordofan with rallies, billboards, posters, and mobile vehicles mounted with loudspeakers encouraging people to vote.

However, the election management bodies addressed this issue to some extent by providing all candidates and parties with free 15 minute radio slots on local radio, and if required, assistance to produce the broadcast. The time was increased to 20 minutes for candidates for governorship though both Haroun and Aziz declined the offer and no provisions were given to assist Telefon Kuku in producing a radio message. Additionally, all gubernatorial candidates were given equal access to the Kadugli stadium for campaign rallies and observers had no reports of any contestants being denied access to public spaces by the administration. However, the Center became aware of several villages that were closed to outsiders by the Popular Defense Forces (PDF), and where campaigners of the party not in favor in the area were prevented from entering.<sup>28</sup> This hindered freedom of movement and association, thus undermining the reach of the campaign process.

Reports from several sources attest that state resources were used to support campaigning, which runs counter to Sudan's international obligation to prevent and combat corruption.<sup>29</sup> Incumbent candidates, including Ahmed Haroun, reportedly used events for public services (e.g. openings schools/hospitals) to simultaneously campaign for the election, and both NCP and SPLM parties used government vehicles to campaign. Al-Ayam newspaper reported on April 25 that Khartoum State Governor Abdurrahman Alkhidr donated SDG 1,300,000 (approximately 481,000 USD) to development projects in Lagawa and Kufa areas of South Kordofan, as well as 120,000 SDG (approximately 44,000 USD) to the state in actions designed to show the NCP in a positive light. While there were some clearly positive aspects of the campaign, such as equal access to radio time, there are several areas where the state should improve its commitment to guaranteeing a free,

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<sup>26</sup> UNHRC, General Comment 25, para. 15.

<sup>27</sup> INC, art. 29; ICCPR, art. 9(1); *See also* EU, Handbook for European Union Election Observation, Second Ed., p.50, which notes that "[v]iolence or the threat of violence, intimidation or harassment, or incitement of such acts through hate speech and aggressive political rhetoric are incompatible with democratic elections."

<sup>28</sup> This was witnessed in Jalud near Dilling, Kaou and Fingyr south of Abu Jibeya although observers had reports of similarly closed districts in other areas of South Kordofan.

<sup>29</sup> African Union Convention on Preventing and Combating Corruption, art. 4(d).

credible campaign environment. In future elections, the GOS should ensure it takes all necessary steps to ensure realization of citizens' rights, with the right to freedom of assembly, freedom of association, and security of the person as crucial to a genuine campaign period.

### **Voter Education**

Voter education efforts started in full only two to three weeks prior to the elections. Carter Center observers noted a large amount of NGO activity in main towns, such as information tents, and community meetings and trainings aimed at certain sectors of the community such as students.<sup>30</sup> However, these efforts did not extend to the majority of more rural areas. The NEC has the overall responsibility for voter education and its campaign largely consisted of posters and billboards with the addition of radio spots in the last week.

While Carter Center observers noted that the population was largely aware of the election, even in remote areas, few understood how to cast their vote and many were highly dependent on others for support. Over seven percent of ballots cast in the gubernatorial race were counted as invalid, rising to over 16 percent in some constituencies. This figure is elevated even for countries with high illiteracy levels. Although some of this percentage may be accounted for by the use of excessively strict standards by polling officials to judge a ballot's validity, it is also indicative of poor voter education.<sup>31</sup> With only three candidates, the ballots for governor were both simple and clear.

### **Election Processes**

#### ***Polling procedures***

Polling was held over three days from May 2-4 in a relatively peaceful environment. Ballot boxes and materials were sealed and stored each night, with police and party agents remaining overnight to ensure their security. Carter Center observers reported that the process was well conducted in the vast majority of polling centers visited, with roughly 87 percent of polling committees observed assessed as good or very good.

The two dominant political parties, NCP and SPLM, had a very visible presence inside and outside polling committees with up to ten agents present at any one time, greatly adding to the transparency of the process. Agents of the two main parties were well organized. In the majority of polling committees visited, both NCP and SPLM had tents placed nearby the centers where voters could check that their names were present on a party copy of the voter registration list. Agents also transported their supporters to these tents in a massive push to mobilize voters. Although legal, these activities were occasionally overzealous. A few people told observers that they felt slightly coerced by the parties to vote and some even said they had not registered because of the pressure from political parties.

Political party agents were observed at 98 percent of polling committees visited, with SPLM and NCP agents present in almost all centers. In 15 percent of polling committees visited the party agents were observed interfering in the process, in some cases providing unauthorized and inappropriate assistance to voters to mark their ballots. NEC procedures state that illiterate voters can be assisted by a person of their choice in casting their vote. In a few polling committees in the Dilling and Heiban constituencies, observers noted party agents bringing in voters and marking the ballot for them. Although no voters complained about this assistance, it clearly undermines the voter's right to

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<sup>30</sup> Supported by the United Nations Development Program and the National Democratic Institute

<sup>31</sup> Two polling committee observed disallowed ballots marked with a thumbprint (which was how ballots were marked for the referendum) and on disallowed ballots marked in blue not black ink. These standards were agreed by the party agents rather than by the polling committees.

vote and Sudan's commitments to equal suffrage and secrecy of the ballot. In spite of these isolated problems, only one incident of ballot stuffing was suspected by Carter Center observers in their visits to 165 polling stations.<sup>32</sup>

By the second day the SHEC issued an instruction that not more than one agent or observer per party or organization could be allowed inside the polling committee at any one time, but coming late in the polling process, the instruction had limited impact.

Polling staff generally followed correct procedures, with the exception of identification procedures. In 58 percent of polling centers observed, the staff failed to check voters' hands for ink before allowing them to vote. In a similar percentage of polling stations the identification officer failed to ask the voter for identification (ID), or have the voter confirmed by an identifier, to prove they are the person named on the voter registry and as provided for in the procedures. This weakened safeguards against multiple voting and represented a setback for the integrity of polling. There were a few complaints raised by party agents on the final day of some voters trying to vote a second time. A potentially more serious consequence was that in a small number of polling stations, party agents were observed distributing voter registration slips of absent voters to unregistered citizens, who they had transported to the polls, thus facilitating illegal proxy voting. In some polling stations, underage voting was observed, which might also be a consequence of these registration slips being passed on and used in lieu of proper identification.

Impersonation of a voter is a clear violation of the election law. It should be stressed that both main parties were involved in the same practices. Although the polling staff was not seen to be involved in these practices, their lack of understanding of the correct procedures directly allowed for abuses to take place. Training should be given to identification officers as well as to polling committee chair people so as to improve identification procedures and increase the overall knowledge of the polling committees.

The vast majority of all polling centers observed in South Kordofan opened on time for all three days of voting (96 percent of polling committees visited), were supported with the required number of staff (more than 96 percent of polling committees visited) and had sufficient voting materials.<sup>33</sup> Turnout was high in the areas where Carter Center observers were present, although certain areas such as Mughlad and Buram had noticeably lower turnout. Despite there being long lines to vote on the first day, voters displayed admirable patience with any delays. Because there were four different ballots being cast during the process, the time necessary for voters to complete the full voting process was roughly two to three minutes for the average voter in more urban areas.

Two days prior to the election, the NEC published on its website a list of twenty five polling stations that were moving to new locations due to logistical challenges. This was in accordance with procedures that said that polling stations could be moved if the polling committees and party agents agreed. There were reports of a few more polling stations moving on the day of the election, which was the cause of a complaint by SPLM.<sup>34</sup> Better planning would help to prevent such issues in the future.

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<sup>32</sup> Polling committee #5 constituency 29, Mughlad

<sup>33</sup> Most polling materials were present at 99 percent of polling committee, however polling journals (present at 93% of polling committee) and stamp pads (89%) were missing in a few of the polling committee.

<sup>34</sup> Most notable was a case in Babanoosa, where the polling station was moved from the racing club to a school without informing party agents of the two main parties. After a complaint was made, the geographical constituency officer arrived and sealed the ballot boxes. He found three empty boxes that had been used for training purposes and polling resumed. The first sealed boxes were to be opened and checked for malfeasance during the counting process.

Overall, intimidation of voters or other participants was rare, and party agents and observers were able to monitor the polling process without restrictions in more than 95 percent of all centers visited by Carter Center observers. However, the pervasive climate of insecurity in the state likely added to voter fears and may have negatively impacted voter turnout.

Although there is room for improvement in future elections, the polling staff generally executed their duties in keeping with procedures and the NEA. However, for future elections the identification officer, as well as the polling station chairperson, should receive training to ensure proper identification procedures are followed. The number of party agents allowed inside the polling station at any one time should be limited to one or two per party to allow the polling committee to perform their functions without interference and to prevent possible manipulation of voters.

### ***Counting and Transfer of Materials***

Polling staff counted the ballots on May 5 and 6. Observers reported that procedures were largely followed, with polling staff checking all steps in their manuals. Again party agents were present and very watchful of the process, often arguing over the validity of each ballot. Generally each ballot was held up for the scrutiny of all observers and party agents present in a commendably transparent process. However, decisions on the validity of ballots were occasionally arbitrary, with rules sometimes being decided by the party agents rather than by the polling staff in accordance with directives.<sup>35</sup>

Observers noted that votes were generally counted accurately, and did not witness any attempts to manipulate the results. At several centers, observers witnessed recounts conducted by the polling staff at the request of party agents to verify again the validity of the results. At most polling centers visited, the results forms were completed correctly and copies were posted outside the polling committee for voters to see, an important step for ensuring transparency of the election at the local level.

Polling centers closest to Kadugli began transferring materials on May 5, while many of those further away waited until the morning of May 6 for security reasons. UNIREC provided assistance by transporting materials from places with on-going insecurity. Party agents were allowed to follow the movement of materials to the SHEC. All materials arrived in Kadugli by May 8.

### ***Tabulation and Results Announcements***

The results tabulation proved to be the most contentious part of the process. In order to make the process more transparent and calm party fears that results might be changed, the SHEC decided to open the tamper evident bags (TEBs) containing the results, in the presence of party agents. Due to lack of space in the data center, the process was moved to a large hall where the results were read out in the presence of party agents. Tabulation proceeded slowly, especially due to the SPLM contesting several of the results, mostly on procedural issues. By the second day the SHEC started operating four stations opening TEBs at the same time in order to speed up the process. This caused a walk out by the SPLM, which claimed they were not consulted, halting the process as a result. The Deputy Chairperson of the NEC arrived on May 9 and agreed that the process would recommence the next day with three stations operating simultaneously.

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<sup>35</sup> The NEC polling and counting manual states that a ballot is valid if the choice of the voter can be reasonably ascertained. In one polling committee in Abu Jibeya the party agents decided only to accept ballots marked in black ink, not in blue ink.

However, the SPLM walked out again after only an hour because the SHEC said they could not deal with complaints from the polling committee level as they arose, and stated that these should, by law, go to the courts after the announcement of preliminary results. The environment in Kadugli was extremely tense at this stage with a large presence of police and troops from all sides on the streets. The Carter Center released a statement on May 12 calling for calm and for the parties to allow the process to unfold peacefully. Eventually the NEC sent a nine person delegation to Kadugli on May 12 who supported the SHEC's actions. The SPLM refused to rejoin the process, and stated that they did not want to validate a process where they believed the administrative bodies, SHEC and NEC, to be biased.

The results process moved quickly after this point, and the opening of the TEBs was completed on May 13. Results were then entered into an Excel file following a number of cross checks both locally and with the NEC. Official results were released on May 15. Carter Center observers monitored parts of the process and did not note any problems with the Excel data entry or the opening of the TEBs.

The Carter Center is concerned, however, that election officials appear to have chosen not to use the official database developed to handle the preliminary results. The database is programmed to reject results where the numbers do not reconcile and these results would then be quarantined and investigated before they could be entered. This process was bypassed by the SHEC, thus removing an important safeguard that can highlight anomalous results.<sup>36</sup> Moreover, this software is used to post results, disaggregated by polling station, on to the NEC website. At the time of this report the results, this has not happened.

The Carter Center strongly urges the NEC to post the individual results, along with number of voters that participated, blank and invalid ballots and the total number of registered voters for each polling station to allow party agents to compare their figures and provide for a full analysis of the results. This is in line with international best practice to provide full transparency of the tabulation of results.

## **Complaints and Appeals**

The complaints process fell short of Sudan's international commitment to ensure the right to effective remedy. Although the NEC initially established a system whereby complaints by political parties and aggrieved voters brought at one level of election management could be reviewed at the next level of election management, it failed to pass a regulation governing the process and rescinded the process when the SPLM held up the results tabulation process with a large number of complaints.

The right to an effective remedy is fundamental to ensuring all other human rights. It is a State's obligation to secure the right of every individual or political party to a remedy for violation of political and electoral rights, including the right to vote and to be registered as a voter, as well as candidature, party and campaign rights.<sup>37</sup> In addition, it is a responsibility of the State that such dispute is determined promptly within the timeframe of the electoral process and effectively by an independent and impartial authority.<sup>38</sup> The election administration body should act in conformity with the law and everyone has the right to submit criticisms and proposals for improvement to

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<sup>36</sup> Two of the complaints brought by the SPLM during the time they were still present in the tabulation hall were regarding non reconciled results. The SHEC could have used its executive authority to investigate by opening the second TEC containing the polling journal, complaint forms and voter register.. This is an important part of the quarantining process and can expose whether the problem was due to a procedural error or manipulation of the results.

<sup>37</sup> ICCPR, art. 2(3).

<sup>38</sup> ACHPR, art. 7.

governmental bodies, agencies and organizations.<sup>39</sup> The NEA provides for the right to legal redress and establishes a channel for the adjudication of election disputes through the district courts and appeals on the final results to the Supreme Court. According the legal framework, parties have one week from the official announcement of results, i.e., May 16 – 22, to file formal complaints with the Supreme Court. The court should review and adjudicate claims within two weeks of receipt. However, it does not allow further appeals of court decisions to a superior court administration. Moreover, it fails to provide appeals mechanisms for the decisions or actions of the election administration bodies, except for a decision on candidate nominations.<sup>40</sup>

The NEC itself, having overall responsibility for the conduct of the election, has the responsibility to use its executive responsibility to investigate complaints and take action where necessary to ensure the integrity of the process. The NEC took this responsibility in its handling of the SPLM complaints regarding voter registration and established a process by which complaints could be made to a polling committee during the election using a complaints 'Form 7.' This was available for use by party agents but also, for the first time, by voters, who could file a complaint if they felt their personal voting rights were removed or violated. Observers noted that party agents were trained in using the form but sometimes brought frivolous complaints for issues that had already been successfully addressed by the polling committee chairman.

However, the NEC failed to establish adequate procedures for dealing with Form 7 complaints. The only applicable rule is the NEC general election rules of 2009 Article 52(4) which states that complaints made during counting that are not accepted by the polling committee should be attached to the results form. Thus, the Form 7 complaints brought during polling were enclosed in a second TEB which was not opened as per procedure. This rendered the Form 7 mechanism ineffective. The NEC decision not to review any complaints during the tabulation process was unfortunate and regrettable, but understandable in the circumstances. The majority of complaints brought by the SPLM that observers witnessed during the results tabulation was of a minor nature or unsubstantiated. For instance, the SPLM complained about corrections being made to results forms in blue ink rather red as stipulated in the procedures even though they were informed that only blue pens had been given in the packs in that area and all party agents had signed the results forms.

However, the SPLM brought forward two more serious complaints during the tabulation of results regarding results that did not reconcile. The SHEC could have used its executive authority to investigate by opening the second tamper-evident bag containing the polling journal, complaint forms and voter register. The entry of the results into the formal database, which would quarantine non-reconciling results, would have indicated whether the problem was due to a procedural error or manipulation of the results. The integrity of the process would have been stronger had the formal database been utilized.

Undoubtedly, the minor nature and lack of substantiation of many of the SPLM complaints led to the NEC's decision not to deal with complaints during tabulation. However, the Carter Center urges the NEC to establish a complaints procedure for future elections that safeguards the right to effective remedy prior to the announcement of results and to use the formal database established to aggregate results so as to catch any potential problems. Likewise, political parties should be reasonable in their demands and not abuse the complaints process with frivolous or unfounded complaints.

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<sup>39</sup> UN Declaration on Right and Responsibility, arts. 8, 11.

<sup>40</sup> NEA, art. 46.

## **Observers and Party Agents**

The SHEC had an inclusive policy towards observers and accredited approximately 800 domestic observers, and over 13,000 political party agents, in addition to members of the international community and Carter Center observers. This is in line with Sudan's commitment to ensure that voting and counting be transparent and observable by candidate agents and observers so that electors have confidence in the security of the ballot and the counting of the votes and the NEA.<sup>41</sup>

Carter Center observers noted the presence of SPLM party agents in all polling committees visited and NCP agents in 90 percent of polling committees. Agents from a number of other political parties and observers from National Civic Forum (NCF) and the Sudanese Group for Democracy and Elections (SuGDE) were also present in nearly 70 percent of polling committees visited. Both groups released press statements on May 12, in which they also noted that despite high tensions and procedural irregularities, the process thus far had been conducted safely and transparently, with active participation by political parties. The involvement of such groups represents the important role of domestic observers in promoting an open process and increasing a state's capacity to hold fair and credible elections.

There were very few reports of observers being restricted in their observations by either polling staff or security (except for the incident in Dilling), and counting and tabulation processes seem to have been open to all. This said, the NCP accredited some 3,700 agents and the SPLM approximately 7,000 for just 666 polling committees. This meant that there were up to five agents from either party present inside each polling committee at any one time with additional agents outside, receiving voters upon arrival.

In over 15 percent of polling stations observed, party agents were involved in the voting process, in many cases directing staff and voters, in effect conducting the process. In a further 8 percent of polling stations visited, other non-accredited party officials were similarly involved and observed instructing polling staff how to do their jobs or directing activities. SPLM party agents were most heavily involved in these infringements. This is contrary to the functions of party agents under the NEA 105 (2), which states that they shall not interfere in the work of elections committees in any way.

By the second day of polling, May 3, the SHEC issued a directive to allow only one agent or observer from any one group in the polling committee at any one time. However, this ruling was not applied in all areas.

The Carter Center strongly recommends that such directives are made in advance of accreditation in future to allow all parties to train their agents accordingly. Further, the number of party agents allowed inside a polling station from any one contestant should be limited so as to avoid undue pressure placed on polling staff.

## **Women's Participation**

The principles of equal active and passive suffrage apply to all sectors of society including minority groups and women. Women were observed to be voting in equal or greater numbers to men in the majority of areas. However, in a few instances observers saw large numbers of women being transported to a polling committee and then being assisted to vote by the party agent. This

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<sup>41</sup> UNHRC General Comment 25, para. 20; NEA, art. 76(3).

contravenes the right of the voter to determine his or her own choice and may be viewed as a deliberate attempt to manipulate a vulnerable sector of society.

In terms of a women's right to stand for election, the NEA provides for 25 percent of seats to be reserved for women and allocated by proportional representation by closed party lists. However, the parties themselves did a less commendable job of representing women. Although seven parties put forward the full eight women candidates for the party lists, no party supported female candidates for the constituency seats. Out of 130 candidates standing for election for the 32 constituency seats, only two were women, both independent candidates. All three candidates for governor were men.

Additionally, women were not well represented in election management bodies. Although 29 percent of polling staff in polling committees visited were women, none served as chairperson. No women are represented at the SHEC. The Carter Center recommends that further steps are made to redress this imbalance in future recruitment of polling staff.

The NEC should make greater efforts to include women at all levels of election managements and political parties should make efforts to promote women as constituency candidates rather than just relegating them to the women's list.

### **Participation of Nomadic People**

South Kordofan is home to a number of nomadic communities, the largest being the Misseriya. The NEA and electoral procedures do not adequately provide for the registration and voting of these communities. The NEA Art 22.1.a states that in order to register a citizen must be resident in the geographical constituency for at least three months prior to the close of the register and the register itself must close three months prior to the start of polling, after a period of objections, complaints and exhibition that must necessarily last at least two weeks. These provisions serve to disenfranchise nomadic communities who do not remain in one constituency for the length of time to both register and vote.

The SHEC addressed some of these issues by sending mobile registration teams to register people in the most remote locations, creating voter registry lists that were specifically nomadic. However, the Carter Center could find no evidence that these lists were then sent to the polling stations in the areas where the nomadic communities had resettled. Even this approach creates additional problems of transparency, protection against manipulation of such lists, and determining which constituency the nomads would be eligible for (or for allowing them to vote only for the governor and party lists). The Center therefore recommends that the NEC review the issues to determine the best way to register nomadic communities and allow them to vote, ensuring appropriate amendments to the law and procedures to ensure sufficient safeguards.

### **Next Steps**

The South Kordofan elections conclude the electoral processes mandated by the CPA, and were critical in electing members of the state legislative assembly that will implement the anticipated popular consultations. The upcoming consultations will provide the citizens of South Kordofan with an opportunity to reflect on the measure to which the CPA has meet their aspirations. The Center supports the parties to take immediate steps to commence the popular consultation process, given the short timeframe for their implementation and for the SPLM to take up their seats in the legislature to ensure that all citizens of the state are represented in the state assembly. Further, the Center urges all parties to respect the rights of the citizens of South Kordofan to participate in a peaceful and genuine

popular consultation process in order to ensure that all stakeholders have a voice in the future of their state. The Center emphasizes the need for all parties to utilize proper legal channels to address electoral complaints, and avoid resorting to inflammatory rhetoric or violence in the post-election period.

### **Observer Deployment and Methodology**

The Carter Center deployed four long-term observers and a core team of six analysts who monitored the entire process of the South Kordofan gubernatorial and state legislative elections from the start of voter registration to the announcement of the preliminary results. In total, 14 short-term and long term observers, as well as additional core staff observed polling, counting and the tabulation of results. Observers were deployed in teams of two around the state, making 165 visits to polling committees in 26 of the 32 constituencies over the course of the election. Observers were restricted from traveling to certain areas of South Kordofan due to security concerns.

The observation mission represents 14 different nations including Denmark, Egypt, France, Germany, Hungary, Italy, Kenya, the Netherlands, Norway, Sweden, Uganda, the United Kingdom, the United States, and Zimbabwe. The Center has maintained a presence in South Kordofan since November 2009, initially observing voter registration for the April 2010 elections. The Carter Center released statements on voter registration and the nominations and campaign period, which can be found on its website, [www.cartercenter.org/](http://www.cartercenter.org/).

The Carter Center assesses electoral processes in Sudan based on Sudan's obligations in the 2005 Comprehensive Peace Agreement, Sudan's Interim National Constitution, the National Elections Act, the Political Parties Act, as well as Sudan's international treaty obligations for democratic elections and human rights. The objectives of the Center's observation mission in South Kordofan are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all in South Kordofan, and demonstrate international interest in the electoral process.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 35 election observation groups.

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*The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production. The Carter Center began working in Sudan in 1986 on the Sasakawa-Global 2000 agricultural project and for more than 20 years its health and peace programs have focused on improving health and preventing and resolving conflicts in Sudan. Please visit [www.cartercenter.org](http://www.cartercenter.org) to learn more about The Carter Center.*