



The circular is 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 requires parties to submit notification of campaigning events held on their own premises, a provision that has led many political parties to voice complaints to The Carter Center. Political parties report that these regulations are applied inconsistently across the states and that, in practice, parties often have to report to several security agencies rather than a single authority.

*African Union-backed Code of Conduct.* The recent decision by 16 political parties and several independent candidates in Southern Sudan to endorse the African Union-backed Code of Conduct is a promising achievement. The Center applauds the generally inclusive and conciliatory way in which the Code of Conduct was drafted among the parties. The Center expresses its hope that the members of each state Political Parties Council created as a result of the Code of Conduct in Southern Sudan will work cooperatively and in respect of others' rights throughout the elections and thereafter.

The majority of the Code of Conduct provisions already exist in law; however the Code of Conduct provides some valuable additions. It rejects the need for permissions for rallies and events in public areas, which are called for in the NEC campaigning regulations instruction. The AU Code of Conduct also provides for a conflict resolution mechanism through the establishment of state Political Parties Councils, in collaboration with the Political Parties Affairs Council, the national political party registrar. Such councils should be established quickly to benefit from their maximum potential.

It is unfortunate that efforts to reach agreement on a comprehensive Code of Conduct for remaining political parties have not yet succeeded. The Center encourages further dialogue to endorse similar principles and demonstrate restraint and civility before, during, and after polling. The concerns expressed by many of the political parties active in Northern Sudan should be considered.

To facilitate a more open campaign process, the Center urges the NEC and the Ministry of the Interior to revise the campaign regulations so that permits for rallies and events in public areas and on party premises are not required. If campaign regulations are not revised, Sudanese authorities should grant permissions as quickly as possible within the 72-hour window, and make every effort to simplify the approval process by streamlining procedures and designating a dedicated contact point in every state. Delays in processing requests or other bureaucratic impediments will unnecessarily hinder the timely conduct of campaign rallies and undermine confidence in the freedom of the election.

*Participation of Women.* As per the CPA, women are guaranteed a minimum of 25 percent representation in the national, Southern Sudan, and regional assemblies, and the Center welcomes the enthusiastic participation of Sudanese women in the electoral process. Derogatory comments about the capacity of women to serve as representatives of the people have no place in a tolerant and democratic society and the Center urges candidates to desist from any such characterizations, as recently occurred in the gubernatorial contest for Unity State.

*Use of State Resources.* The Center has observed that state vehicles are frequently used for party political purposes, which constitutes a violation of the elections law. The Center urges the Governments of Sudan and Southern Sudan and both the National Congress Party (NCP) and

Sudan People's Liberation Movement (SPLM) to address any abuses immediately and to ensure that all candidates and political parties enjoy a level playing field throughout the whole of the campaign period.

The two ruling parties, the NCP and the SPLM, have a particular responsibility to campaign on the basis of a level playing ground and not use their positions of strength to limit other parties' activities or exploit state resources for campaign purposes. The Center encourages all parties to demonstrate transparency in their campaign expenditures and ensure full compliance with NEC campaign finance regulations

*Campaign Resources.* Although the Elections Act did not require public funding of political parties, the Government of Southern Sudan (GoSS) agreed to provide five million Sudanese Pounds to 13 political parties in the South after the issue was raised at the recent AU conference. The Carter Center welcomes this contribution to improving the campaign atmosphere and levelling the playing field. It is, however, surprised that two parties, rather than the government, were mandated to distribute the public funds. In light of this decision, the Center urges the Government of National Unity (GNU) to move quickly to match this decision with funding for the Northern parties.

Regardless of this, with the exception of the NCP and the SPLM, most political parties have stressed that they do not have sufficient financial resources to widely advertise their campaigns and candidates. Some say they are limited to using posters and in some cases, such as in Port Sudan, a local by-law precludes political parties from placing posters in the city, further reducing their outreach. This problem is indicative of the inequities in resources that the different parties bring to the campaign.

The Center is also concerned by the malicious removal and restrictions on publicly displaying candidates' campaign posters, with incidents reported in Khartoum, Juba, Warrap, and Malakal. Such actions are contrary to the spirit of a free and open campaign and the State High Committees should address such incidents immediately by reinforcing the need for a fair process, where all parties are afforded equal rights to campaign and to express their political views.<sup>2</sup>

Overall, the NEC must ensure that any problems faced by registered political parties or independent candidates are addressed swiftly. Where necessary, the NEC should directly intervene with state and local authorities in the interests of ensuring the most competitive and equitable campaign possible is realized.

### **Media Environment**

Equitable access to broadcast and print media is a fundamental democratic right for contesting political parties,<sup>3</sup> and currently this is not the case in Sudan. The Center welcomes the NEC's decision to create a media monitoring process. However, the withdrawal of five of the six political party members of the joint media monitoring mechanism, leaving only the NCP, is of grave concern. Confidence and trust in the media monitoring mechanism is crucial in ensuring that the campaign proceeds effectively.

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<sup>2</sup> United Nations Human Rights Committee (UNHRC), General Comment 25, para 25

<sup>3</sup> African Union, Declaration on the Principles Governing Democratic Elections in Africa, art. III a

The Center is encouraged that some of Sudan's state High Election Committees are working closely with local media to create an equal distribution of time allocated to different parties. However, reports in some states that payment will be required to air party political programs could disadvantage smaller, less financially secure candidates.

Two radio stations in Juba – Bakhita Radio and Liberty FM – were briefly closed by security agents because of objections to the content of their broadcasts. Journalists elsewhere in Sudan have been harassed and threatened. This behavior by state agencies is unacceptable, and such practices undermine constitutional protections and the objectives of a genuine electoral process.

The Center is concerned by the provision in NEC decision (68) that parties and candidates must pre-record their campaign programs for approval by a NEC committee before being aired. *Umma* Party leader Sadiq Al-Mahdi was accused of 'inciting hatred' in a speech that was refused to be broadcast on Radio Omdurman, a decision that was subsequently endorsed by a sub-committee of the NEC. The committee's objective, when reviewing prospective broadcasts, should be to allow constitutionally protected freedom of expression, not to censor political speech. Subject to the law, the NEC and its subsidiary committees should have no opinion on the content of any material presented.<sup>4</sup> Criticisms of the ruling party its candidates and actions are acceptable subjects of discussion and should not be interfered with by state media.

At least two newspapers have had editorial staff summoned by the National Press Council over comments made by the publications on Omar al-Bashir. State agencies should not dictate

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documents were needed for nomination. Additionally, the NEC's decision to bring forward the deadline for withdrawal of nominations midway through the process, while legally valid, affected the planning of political parties.

For future elections, the Center encourages the NEC and the state authorities to re-examine the

### **Polling Center/Station Numbers: Concern about limiting full participation**

The NEC has recently announced that there will be 10,320 polling centers accommodating 17,914 polling stations throughout Sudan<sup>6</sup>. This represents a dramatic reduction from the originally planned number of approximately 21,000 stations. Per the NEC, the number of polling sites is limited by the ability of the state authorities to provide police personnel and polling workers.

The Center is concerned that the planned number of centers and stations will serve to limit full voter participation, especially in rural areas where there may be substantial distances separating polling centers and many voters would need to travel unreasonably far to cast their ballots. However, given the current state of electoral preparations, it appears that it may now too difficult to increase the number of polling sites substantially.

Each polling station in the North will have to accommodate roughly 1200 voters while polling stations in the South will have approximately 1000 voters per station. It is vital that the NEC's planning anticipates these limits accurately, both because of the inability of polling stations to handle more voters and also because of the corresponding capacity of the pre-packed polling station kits. Even a moderate turnout will be challenging to accommodate during the prescribed three-day balloting period.

As a result of the NEC's planned number of polling stations, state elections committees may have to make choices that exclude more remote or inaccessible communities, undermining Sudan's commitment to the promotion of universal suffrage.<sup>7</sup> A number of the state elections committees have argued in favor of more sites, stating that it will be challenging to include all voters with the current cap on the number of polling stations. The Center encourages the NEC to empower the state elections committees to ensure that all areas of all states have an appropriate distribution of polling centers and stations, to ensure that voters have equal access to polling sites within each constituency.<sup>8</sup>

Participation of internally displaced persons (IDPs) is critical to ensuring universal suffrage.<sup>9</sup> Since polling stations will be in fixed locations, the state elections committees must ensure that areas with significant numbers of IDPs host stations sufficient to accommodate all such voters, without causing them undue difficulty to access the process.

Polling simulations conducted with election officials acting as voters in ideal physical settings demonstrated the rate at which a voter can be processed; the idealized estimates showed a flow of voters at around one voter leaving every two and a half minutes, depending the number of ballots issued during the exercise. These simulations suggest that many polling stations, even assuming voters arrive at a reasonably constant rate, will struggle to process all those who wish to vote within the three days allocated for polling. Given such concerns, it is incumbent on the NEC to ensure that training, funds and materials are provided in an expedient fashion and to the highest standard possible to assist polling staff to fulfill their important task successfully.

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<sup>6</sup> NEC Final Distribution List, 16<sup>th</sup> March 2010;

<sup>7</sup> UN, International Covenant on Civil and Political Rights (ICCPR), art. 25 (b)

<sup>8</sup> UN, Human Rights and Elections, para. 104

<sup>9</sup> UN Guiding Principles on Internal Displacement, principle 4

Partly due to the mixed directives that state elections committees have received from the NEC on the number of polling stations and polling staff required, The Carter Center is concerned that recruitment of persons to staff the polling stations is proceeding at a slow pace and that this can negatively impact the adequate training and timely deployment of polling staff. The Feb. 14 NEC Cable (#66) states that each polling station in the South will have six polling staff, while seven staff members are mentioned in the official polling manual. Given the number of ballots to be cast in the South (12) and the anticipated number of voters per polling station, the Center urges the NEC and state authorities to carefully consider the number of officials required to adequately staff the polling stations. The Center also encourages the NEC to ensure that women are recruited as polling officials to ensure gender equity, and improve on past levels of women's participation as electoral officials.

Even with extraordinary efforts to plan and prepare by election officials and others, it may be necessary to extend voting beyond a third day, especially considering the complexity of the electoral process and the unfamiliarity of most voters with the procedures. Additional factors that are likely to impact the length of the voting period polling should also be taken into account. For example, in areas lacking electricity it may not be realistic to process voters in line at 6 p.m. on voting days. Weather or logistically-related disruptions should not be underestimated.

In anticipation of these and other such problems, the NEC should instruct state committees to prepare contingency plans. If a decision is not taken or rules are not established before the start of polling, there may not be sufficient time and capacity to communicate critical decisions and instruction about voting to all polling stations, particularly those in remote rural areas, which could result in confusion and potentially serious problems.

Based on extensive experience in other countries, international electoral assistance providers have suggested creating rules in advance to determine the need for a fourth day of polling. This could be based on the number of registered voters who had voted before the end of the third day of polling, which could then be assessed and decided upon at polling station level. The Center urges the NEC to consider adopting such pre-approved procedures to extend voting to a fourth day, where needed.

**Election Day: Voters Lists and Balloting Procedures.** Polling represents the culmination of the electoral campaign and will be a historic moment for millions of Sudanese. Given that there was limited time to review and correct the published voters' lists due to the delay in processing the electronic lists, the NEC must ensure that no eligible registered voter is turned away, and that the process is as positively inclusive as possible. The NEC must be prepared to respond swiftly to any unanticipated problems, be ready to replenish supplies quickly, and ensure that there are trained polling and personnel held in reserve and available for immediate deployment.

The Carter Center is deeply concerned that the final voters' list is still not ready, with several hundred thousand names still omitted. Reports have surfaced of discrepancies in the handwritten voter registration booklets and the electronic voter registry. In one case, officials in Warrap have identified a difference of 78,000 in the number of registered voters in the registration books and the names inputted from the data center. The NEC should be proactive in efforts to identify other cases, and state level electoral officials should take action to ensure that legally registered voters are not disenfranchised from the voting process.

Printing of the ballots for the Presidency of Sudan and the Presidency of Southern Sudan, having been produced in country, may weaken the security of the ballots. Protections against election fraud must be rigorous and transparent to account for all ballots produced. The NEC should reinforce ballot security procedures at polling, sorting and verification stages to prevent allegations of excess from being a factor which could undermine the credibility of the election. They must ensure the systematic reconciliation of all ballots issued and reinforce ballot security procedures at polling, sorting, and verification stages, and the ballots should be stamped upon issuance as per procedures. Further to this, the ballots should be signed by the polling station staff upon issuance; a step that was described by the NEC to the State High Committees at a recent conference but is not formalized in the polling handbook.

### **Operation Preparations and Election Timeline**

Almost every significant event in the electoral calendar has suffered slippage and this series of delays has led to mounting pressure on the timetable. At the same time, a number of challenges are adding further strains to the process, including limited NEC and U.N. transportation capacity, the massive volume of materials to be deployed, the re-packaging of materials necessitated by changes in the planned number of polling stations, voters per polling station, and delays in ballots production. It is increasingly unclear if the NEC can deliver a successful election on time.

The multiple changes in NEC's operational plans have caused difficulties in implementing electoral logistics. The NEC needs to do more to accelerate final preparations, move forward with the agreed operational plan, ensure that sufficient capac



The NEC's directive that results should be announced immediately following counting at each polling station, with the results posted at each location is to be commended. However, The Carter Center strongly urges that the NEC and State Election Committees take action on a state level by releasing station-by-station results simultaneously with the summary results. Without this it will be challenging for citizens and candidates to verify that the released summary results are the same as those displayed at the polling stations, potentially undermining the credibility of the election.

This applies to provisional, final and, if they occur, progressive election results. These results should immediately be published on the NEC website, displayed at the state election committees, and printed in the local press as soon as possible.

The Carter Center is concerned that there are no provisions in the polling and counting regulations for political party and candidate agents to receive a copy of the reconciliation and results forms (Form 9) for verification reducing transparency and confidence in the process. The NEC should consider including additional carbon copies of the result forms for distribute to agents, in line with electoral best practice.<sup>10</sup>

### **Civic Education and Participation**

During voter registration, The Carter Center commented that the widespread absence of civic and voter education efforts prior to and during registration negatively impacted the level of participation as well as understanding of the process for Sudanese at large. The Center is concerned that if there is not an immediate widespread effort to expand civic and voter education efforts, a similar situation may emerge during the polling process, with possibly more damaging consequences, particularly since voter education is widely recognized as being essential to the exercise of electoral rights by an informed electorate.<sup>11</sup>

The recent arrest of three youth activists from the Girifna organization for 'public noisiness' while the three were attempting to raise civic awareness of the campaign process in a public place is an abuse of state power and sends a disheartening message to all civil society organizations working in support of elections awareness. The Carter Center is also alarmed by reports that civic education awareness events were postponed or cancelled in six states in Northern Sudan due to a lack of coordination between the NEC and state level authorities. The NEC must ensure that no further opportunity for organized civic education efforts is lost in the weeks before polling.

The Sudanese election has a highly complex balloting process, in a country where the population has little experience participating in elections. Thus far Carter Center observers deployed in the regions and the capitals have only observed marginal efforts on civic education surrounding the polling process, which, unless escalated dramatically and rapidly, will weaken the quality of this election. International good practice states that it is crucial that voters know where they will need to vote, what documents will be required for voting, and when results will be available.<sup>12</sup>

There is an urgent need for the NEC, the state elections committees and their key stakeholders to accept responsibility for civic and voter education and make every possible effort to expand

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<sup>10</sup> Commonwealth Secretariat, Good Practice, para. 36

<sup>11</sup> UNHRC, General Comment 25, para. 11.

<sup>12</sup> UN, Human Rights and Elections, para. 88

programs, especially in rural areas, to ensure maximum participation of all Sudanese citizens. Efforts should also include community leaders, traditional authorities and informal media to gain the greatest reach.

### **Election Funding and Recruitment**

State elections committees will face enormous challenges in securing rental vehicles, materials for erecting temporary structures, and other services to carry out the activities prior to and during polling. In order to facilitate efforts to meet these challenges, it is critically urgent for the NEC to disburse funds to all state elections committees in a timely and systematic manner. The delay in disbursement of funds to the state elections committees during the voter registration both at the start and after the announcement of the extension created unnecessary strains in relationships with registration staff and service providers. It is important that higher costs in Southern Sudan are reflected in the NEC's planning and funding transfers.

### **Domestic Observers and Party Agents**

The Carter Center welcomes the work of domestic observers and party agents and the important role they can play in the electoral process. The NEC and state elections committees should provide clear guidelines to domestic observer groups and political party agents on procedures for accreditation as quickly as possible so as to expedite the issuance of accreditation badges. During voter registration, the lack of clarity on these procedures created unnecessary delays and confusion to the domestic observer groups and political party agents, as well as to the state elections committees. The Center urges the NEC to simplify the accreditation procedures, forgoing requirements for observers to provide photo identification and extending the window for accreditation currently set to close on March 20, so as to allow for the broadest participation of Sudanese observers.

communicated clearly to both the security forces, as well as to the public and political parties, so as to build confidence in the process and avoid confusion.

The NEC, state elections committees and state authorities in Darfur should take all necessary steps to avoid the unnecessary militarization of polling stations and any similar instances of interference by NISS officials to those witnessed by the Center's observers in Darfur during voter registration. The Center continues to advocate for a lifting of the state of emergency so as to create a conducive environment during the campaign period and polling.

### **Carter Center Observation Mission**

Following the commencement of long-term election observation activities in Sudan in February 2008 at the invitation of the Government of Sudan and the Government of Southern Sudan, The Carter Center deployed 12 long-term observers to assess electoral process and the broader political and electoral environment across Sudan. The observer delegation is drawn from 12 countries: Cameroon, Canada, Egypt, Eritrea, Kenya, Netherlands, Norway, South Africa, Switzerland, United Kingdom, United States, and Zimbabwe.

The objectives of the Carter Center's election observation mission in Sudan are to: a) provide an impartial assessment of the overall quality of the electoral process, b) promote an inclusive electoral process for all Sudanese, and c) demonstrate international interest in Sudan's electoral process. The mission is assessing the electoral process in Sudan based on the Comprehensive Peace Agreement, Interim National Constitution, National Elections Act, and obligations for democratic elections contained in regional and international agreements, including the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights.<sup>13</sup>

The Carter Center conducts election observation missions in accordance with the Declaration of Principles of 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 to 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/sudan-eom](http://www.cartercenter.org/sudan-eom) to learn more about the Carter Center's election observation mission to Sudan.*

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<sup>13</sup> Sudan ratified the African Charter on Human and Peoples' Rights (ACHPR) on February 18, 1986. The ACHPR came into force on October 21, 1986 after its adoption in Nairobi (Kenya) in 1981 by the Assembly of Heads of State and Government of the Organization of African Unity (OAU). In addition, Sudan ratified the International Covenant on Civil and Political Rights on March 18, 1986, which entered into force on March 23, 1976.