

Deployment

The Carter Center will deploy 24 observers to monitor the South Kordofan gubernatorial and state legislative elections starting on May 2. These include a core team of analysts as well as long-term observers who have been in South Kordofan observing the voter registration and campaign periods. They will be joined by short-term observers to observe the last day of the campaign, polling, counting, and tabulation processes. Observers will be deployed in teams of two in seven localities around the state. They will travel to a number of different polling centers and constituencies over the course of the election. 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 a statement on the voter registration process for the South Kordofan elections on March 24, 2011, based on observations in 19 of the state's 32 constituencies. The following report covers the nomination and campaign periods. The Carter Center plans to release a report on the electoral process after results have been tabulated.

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. 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. The Center will release periodic public statements on referendum findings, available on its website: www.cartercenter.org/

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Statement on the Campaign Period of the South Kordofan Elections

The citizens of South Kordofan are due to go to the polls on May 2 in long awaited gubernatorial and state legislative elections. The elections were postponed in April 2010 due to disagreements between the ruling parties of North and South Sudan, the National Congress Party (NCP), and the Sudan Peoples' Liberation Movement (SPLM) on population census figures.

Although candidate nominations were largely conducted transparently, efficiently, and peacefully, and preparations are largely in place for the start of polling on May 2, there have been worrying developments during the now concluding campaign period. The widespread presence of armed forces and militia throughout the state has resulted in acts of intimidation and increased citizen fears over the forthcoming election.

Candidate nominations resulted in the nomination of five candidates for governor and 130 candidates for the state legislature. However, two of candidates for governor have since withdrawn, and a third, Telefon Kuku, remains detained by the SPLM and is effectively unable to campaign. Despite the inclusion of eight independent candidates for the state legislature, nominations for all constituencies, party, and women's lists are largely dominated by the NCP and SPLM.

Despite these challenges, election preparations are on schedule and the Center notes the National Elections Commission's (NEC) implementation of improved measures from the April 2010 general elections to protect the integrity of the elections process, including internationally printed ballots and high-quality ink. The Center also commends the NEC for the development of a standardized complaints process for political parties and voters.

The Carter Center was invited to observe the process as a continuation of their observation efforts during the national elections. The Center's long-term observers have been present in South Kordofan throughout the process and have reported growing political and security concerns as the polling period has drawn closer. The Center urges the Government of Sudan (GOS), Government of Southern Sudan (GoSS), state authorities, political parties, and other stakeholders to recommit themselves to ensuring that a genuine, credible election can be held.

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in JIUs. Observers have also reported instances of intimidation and prevention of campaigns, which endangers citizens' freedom to express their choice in the elections and could affect the credibility of the process as a whole. Additionally, the Carter Center's observation has been limited as some areas within South Kordofan have been deemed insecure.

The GOS has obligations under the International Convention for Civil and Political Rights (ICCPR) and the African Charter on Human and People's Rights (Charter) to take all necessary measures to ensure the protection of everyone within its territory, against any violence, threats, discrimination, and pres

Although in isolated areas, security incidents have undermined the quality of the electoral process due to limitations on freedoms of assembly, speech, and movement and the security of the person. Against that background, it is incumbent on the SPLM and NCP to re-commit to the provisions of the CPA on security. In particular, the CPA partners should take steps to reduce the number of SAF soldiers in the state, and remove all SPLA soldiers from the state. The GOS should actively pursue campaigns to disarm and integrate militias in the state into the security forces. These steps, coupled with adequate deployment of police to ensure security during the polling and counting periods, should be taken by GOS in order to meet its international and domestic obligations to protect its citizens.²

Candidate Nominations

Candidate nominations were administered credibly by the State High Election Commission (SHEC) and the NEC, resulting in the registration of 130 candidates for state legislature and five candidates for governor. Two candidates for governor later withdrew, leaving only the NCP and SPLM backed candidates and one independent in the race. Although the candidates for state legislature represent 14 political parties and eight independents, the majority of these candidates also come from the two ruling parties of the north and south. The only instance of intimidation during the campaign period was reported to observers by campaigners for the independent gubernatorial candidate Telefon Kuku, who said that they were stopped from collecting signatures and detained for one to two days by SPLA soldiers without charge.

The right to stand for office is a fundamental civil and political right enshrined in international treaties signed by Sudan that ensure everyone's right to take part in the conduct of public affairs, directly or through freely chosen representatives.³ In addition, the ICCPR requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an

offense involving dishonesty or moral turpitude are restricted from running. This restriction is both too open to interpretation and excessive, as depriving candidacy rights based on a crime previously committed can be considered a disproportionate sanction and inconsistent with internationally accepted practices.⁷

Five candidates initially announced their intention to run for the position of governor in the Southern Kordofan state election: (1) Ahmed Haroun, the present governor and leader of the South Kordofan NCP, (2) Abdel Aziz Hilu, the present deputy governor and leader of the South Kordofan SPLM, (3) Makki Belai, leader of the Justice Party, (4) Alzahir Khalil Hamouda, on behalf of the National Umma Party, and (5) Telefon Kuku, formerly SPLM and SPLA and running as an independent candidate. Makki Belai and Alzahir Khalil subsequently withdrew from the election on the grounds that political and security conditions did not favor a free and fair election, leaving only Haroun, Hilu, and Kuku in the race. However, restrictions placed on gubernatorial candidate Telefon Kuku by the GoSS have damaged the inclusiveness of his campaign. For the past two years, Kuku has been held under house arrest or at the SPLA compound in Bilfam, yet he has never been formally charged. Although he has not been permitted to communicate with his campaign organizers in South Kordofan, his candidacy for governor was endorsed by the NEC after receiving the requisite signatures and application and the other parties, including the SPLM, have accepted it.

The contest for state legislature is more plural with 14 parties fielding candidates for the constituencies; most notable of these is the National Umma party with 14 candidates. An additional eight independent candidates are running. However, the race is still dominated by NCP and SPLM who are fielding candidates in 32 and 31 constituencies respectively. Six parties are fielding the maximum eight candidates for the party lists 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, are fielding 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 and the Justice Party has also withdrawn after the official deadline. Candidate withdrawals in constituency #30, Muglad, resulted in only one candidate, who was subsequently endorsed the winner by the NEC.⁸

The right of individuals to participate in public affairs, including through the establishment of political parties and participation in campaign activities, is protected by international principles and fundamental electoral rights.⁹ As per international obligations, political parties and candidates must be granted, on an equal basis, the freedom to seek, to receive and to impart information and ideas regardless of frontier. To this respect, candidates shall have the freedom to convey their message to the voters and nor administrative action, violence or intimidation bar parties and candidates from freely presenting their views and qualifications.¹⁰ While the State undertakes an obligation to ensure equal campaign conditions, participants of elections are also requested to pursue fair campaign rules, not using administrative resources.¹¹

While noting that elected officials will play a primary role in administering the popular consultation process, the Center urges all stakeholders to work towards a transparent, inclusive campaign and polling process, so that whatever the outcome of the elections, it reflects the genuine will of the voters of South Kordofan.

The Carter Center encourages a peaceful and fair campaign environment in the remaining days, for incumbents to cease using government resources to campaign and for a commitment from the Government of Sudan to take all necessary steps to ensure the realization of citizens rights, with the right to freedom of assembly, freedom of association, and security of life and property in South Kordofan.)TjEMC /P #MCID 2 BDC 0 Tc12 Tdofan.

the party's gubernatorial candidates. Evidence of the smaller parties' participation in the election is only visible by the proliferation of campaign posters for all candidates.

On a positive note, gubernatorial candidates have all been given equal access to the Kadugli stadium for their campaign rallies and all political parties contesting the elections were provided 15-minute radio slots on local radio, and if required, assistance to produce the broadcast. This was increased to 20 minutes for candidates for the governorship. However, both Haroun and Aziz declined the offer. No provisions have been made to assist Telefon Kuku in recording a message since he cannot come to the radio station in person.

There have been reports from a variety of sources of state resources being used to support campaigning, which runs counter to Sudan's international obligations.¹² Incumbent candidates, including Ahmed Haroun, have been reported using events for public services (e.g. openings of schools and hospitals) to simultaneously campaign for the election and of both NCP and SPLM camps using government vehicles to campaign. Al-Ayam newspaper reported on 25 April that the Khartoum State Governor, Abdurrahman Alkhidr, donated SDG 1,300,000 (approximately \$481,000 USD) to development projects in Lagawa and Kufa areas of Southern Kordofan in addition to 120,000 SDG (approximately \$44,000 USD) to the state. President Bashir used an official visit to open bridges to speak at rallies for Haroun in Babanoosa, Mughlad and Kadugli from April 26-28. On each occasion he made statements about the status of Abyei stating that the North will not recognize the independence of South Sudan on July 9 if the South does not concede that Abyei is part of the North. Such statements so close to the election can only increase citizen fears and further increase tensions.

Although the two main parties are campaigning throughout the state, Carter Center observers have noted a few incidents of intimidation and prevention of campaigning, particularly when they are in the other's stronghold. Notably, when Abdul Aziz went to Mughlad in western South Kordofan to campaign on April 2, five armed men told the crowd to disperse. The situation was resolved by SPLA, rather than JIU forces, securing a perimeter. However, the rally started late and was considerably shortened by the incident. Campaign organizers for Telefon Kuku have complained on a number of occasions of campaign staff and intimidation of supporters in his home area of Buram, southwest of Kadugli, by SPLM. However, such reports are difficult to verify.

Kuku's campaign has been challenged on several fronts. It was launched on April 21 by his supporters despite the fact that he remains under arrest in Juba. The campaign event was low-key and sparsely attended primarily by supporters from Kadugli and Buram. Supporters said he would address the crowd via his mobile phone, but this did not happen as his phone was taken from him at the start of the campaign. In the absence of formally charging Kuku, The Carter Center calls upon the SPLM to release him immediately so that he can fully enjoy the right to campaign and be elected which should only be

¹² AU, African Union Convention on Preventing and Combating Corruption, Art. 4(d).

circumscribed when there are objective, reasonable criteria.

Funding for voter education efforts is largely being directed towards local NGOs by the international community. NGOs have organized group meetings, broadcast announcements by radio and distributed voter information materials.¹⁶ The NEC has the overall responsibility for voter education and its campaign largely consists of posters and billboards. However, Carter Center observers note that the population is aware of the election even in remote areas. People who engaged in the process by registering have generally learned about the process through educational efforts made at different points in the process, starting with voter registration.

Complaints and Appeals

The Carter Center notes improvements in the current dispute resolution mechanisms and the responsive approach to complaints taken by the NEC thus far. 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.¹⁷ 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.¹⁸ The election administration body should act in conformity with the law and everyone has the right to submit criticisms and proposals for improvement to governmental bodies, agencies and organizations.¹⁹ 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. 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.²⁰

The majority of candidates, their campaigners and community leaders spoken to have reported to Carter Center observers that they are convinced that fraud will occur and mistrust that any complaints they bring will be adequately dealt with by the judicial authorities. Addressing this concern, the NEC has developed a standardized process by which complaints can be made to a polling committee during the election. A complaints 'Form 7' will be available in all polling committees for political parties to file complaints if they feel their candidates' electoral rights are violated. In a positive development, voters will also be able to use this form to file a complaint if they feel their personal voting rights have been removed or violated. This 'Form 7' has been printed in greater numbers than previously to ensure that political parties have adequate means of redress. Copies of all complaints are sent to the GCO and SHEC. Polling Committees can decide on complaints immediately. However, if a complainant is dissatisfied with the resolution they can pursue their complaints with the GCO and from there to the SHEC.

¹⁶ With the support of the National Democratic Institute, local partners have been operating stationary information tents in Kadugli, Kauda, Dilling and Talodi localities.

¹⁷ Article 2, International Covenant on Civil and Political Rights

¹⁸ Article 17, AU, AFCHPR

¹⁹ Article 8 and 11 of the UN declaration on Human Rights and responsibilities

²⁰ Article 46 of the National Elections Act.

The Center also notes that the NEC has been responsive to some serious concerns already raised by political parties. For instance, an investigation was conducted into an allegation by opposition parties of registration malpractice in Mughlad, constituency #30, which resulted in the cancellation of 20 registration books.

The Carter Center commends the NEC for instituting the complaints system to help ensure the rights of every individual or political party to a remedy for violation of political and electoral rights. Further acknowledging the responsiveness of the NEC to complaints brought thus far, the Center appeals to contestants to use legal means to raise any issues they may experience during the polling and counting processes.²¹

Observers

In addition to The Carter Center, over 700 domestic observers, many thousands of candidate and political party agents and over 60 members of the international community have registered with the NEC and SHEC to observe the May 2-5 elections. The SHEC

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