



# USIPEACE BRIEFING

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## **Conducting Elections in Darfur: Looking ahead to Sudan's 2009 Elections**

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## **INTRODUCTION**

With elections planned in Sudan in 2009, the question of how residents of the Darfur region should participate points to a number of challenges that remain unanswered. Is the security situation in Darfur adequate to permit elections? With so many Darfurians displaced in IDP camps, are elections feasible? How can the widespread skepticism about elections among the population of Darfur be overcome? Can national elections in Sudan be credible without the inclusion of Darfur? Can Sudan's electoral law be implemented in Darfur? What electoral processes can be adopted to overcome these various obstacles?

The United States Institute of Peace recently convened a workshop to discuss these issues and examine if and how elections can be held in Darfur. Presentations were given by Jarrett Blanc, Charles Callanan (UNOPS), Kåre Vollan and Gerard McHugh (Conflict Dynamics International). This USIPeace Brief summarizes the issues discussed at the workshop, including the technical challenges election organizers will face, issues concerning implementing the National Election Law in Darfur, and the extent to which elections in Darfur may contribute to minority inclusion and political accommodation in Sudanese politics.

## **BACKGROUND**

The 2005 Sudan Comprehensive Peace Agreement (CPA) between North and South Sudan requires elections across all levels – local, state and national – by July 2009. Preparations for these elections have been slowly inching along. The National Election Act, passed in July 2008, was supposed to be enacted in 2006. The National Election Commission was only appointed in late 2008, and the census, meant to be completed by July 2007, was undertaken in April/May 2008 but results have yet to be released.

As the CPA deadline for elections approaches, the question of how Darfur can and should participate remains unclear. The region is still experiencing violent conflict, with millions displaced and living in IDP camps and refugee camps in

neighboring Chad. However, the specific challenges for elections in Darfur were not sufficiently addressed in the CPA or in the National Elections Act, and it has yet to be specified how elections will accommodate Darfuris.

### **ARE ELECTIONS IN DARFUR FEASIBLE?**

From an elections logistics standpoint, holding elections in an area of ongoing conflict is possible, but not recommended. Without a peace agreement, the campaigning, election preparations and election day operations will take place in the midst of a civil war. Election teams can establish a voting infrastructure, from designating polling places to acquiring ballot boxes and drawing up ballots in an insecure environment, and have done so in other post-conflict and conflict situations, including Iraq, Afghanistan and the Democratic Republic of Congo. They can also feasibly establish an electoral infrastructure, including the electoral staff, operational logistics, and transportation of materials. This process will require time and extensive planning, and Sudan's National Elections Commission has not yet made an official request to the United Nations or international partners for elections assistance.

While establishing voting and electoral infrastructure may be difficult but feasible, securing the environment for electoral activities, making it safe for parties to hold rallies, for candidates to campaign with freedom of movement and expression, and for citizens to register and go to the polls on election day will require political will from both the Government of Sudan (GoS) and the Darfurian opposition movements. Evidence thus far from the implementation of the census shows that the GoS has been extremely slow to take on preparations for the elections, and that competing priorities are a significant barrier to government action. Without an active commitment from the government and the opposition movements to hold free, fair and non-violent elections, the elections will not be successful.

**IF ELECTIONS ARE HELD IN DARFUR, WHAT WILL THEY ACHIEVE?**

The degree to which elections in Darfur will contribute to the inclusion of minority voices in the Sudanese legislative process depends on the Sudanese electoral framework established in that National Elections Act (2008). This Act specifies the electoral system to be used in each of the following elections:

- ***President of the Republic***  
Direct majority vote with run-off between the two leading candidates within 60 days if no candidate gets more than 50% in the first round
- ***President of the Government of Southern Sudan***  
Same as the President of the Republic
- ***Governors of each State***  
Direct plurality vote (first past the post)
- ***Members of the National Legislative Assembly (NLA)***  
450 Members to be elected in three races:
  - 1) 270 seats (60%) elected using majoritarian system in single-member constituencies (First-past-the post)
  - 2) 112 seats (25%) women elected at state level in closed proportional representation (PR) lists
  - 3) 68 seats (15%) elected at state level in closed PR political party lists.
- ***Members of the South Sudan Legislative Assembly (SSLA)***  
Number of members determined after census; elections follow a three race system similar to the NLA
- ***Members of the 25 State Legislative Assemblies***  
Number of members as per state constitution to be elected in three race system similar to the NLA
- ***Council of States***  
Two members from each state elected in State Legislative Assemblies by block vote (two Observers elected by the Council of Abyei by block vote)
- ***Single Member Constituencies***

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Based upon census data. Will generally be different geographic constituencies for return or representatives to state and national levels assemblies in both the North and South

While elections for president and governors are likely to be less problematic, elections for Members of the national and state legislatures are based on a combined plurality-proportional system, with 60% of the seats elected from single-member geographic constituencies, 25% of the seats going to women elected at state level in closed PR lists, and the remaining 15% going to other representatives elected at the state level in closed PR political party lists. This is an extremely complicated framework, and potentially unworkable under current conditions. Under this law, carrying out elections on all levels will require no less than twelve ballots in the South and eight in the North, with the potential for additional run-off ballots. The single seat constituencies that will return 60% of the members of the legislative assemblies may also be different across on the state and national levels, adding to the complications of registering voters, creating candidate lists, campaigning and facilitating the vote on election day.

The election law presents particular problems for Sudan's millions of internally displaced persons (IDPs), many of whom are originally from Darfur and may be sympathetic to opposition movements. The electoral law requires prospective voters to register in the constituency where they have lived for the last three months and present some form of personal identification. The registration lists will then be published three months prior to the election. This means that unless provisions are put in place, IDPs would have to relocate to their homes or resettle at least six months before the election to vote in their home constituencies – a highly unrealistic expectation.<sup>1</sup> In reality, IDPs will likely have to vote in their current place of residence. Because those who were displaced are more likely to be opposed to the government, spreading their votes across the constituencies where they are currently living may skew the vote in Darfur in favor of the more pro-government forces who remain.

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Additionally, the number of geographic constituencies for electing representatives to the National and State Assemblies will be based on the census conducted in April and May 2008. However, the census did not cover many areas in Darfur, including the IDP camps. Consequently, the number of constituencies allocated to where IDPs are now located are likely to misrepresent their actual size, and IDPs living in camps will likely become a much smaller voice in Darfur's single-member districts.

In addition to the potential for disenfranchisement of the IDP population, the framework as it stands, with single-seat constituencies, presents a significant obstacle to the inclusion of minority voices. As opposed to multi-seat constituencies, where proportional representation would enable representations of different views within each district, a single seat constituency means that the candidate with the most votes will win the only seat. In the north and south, these districts will be largely homogenous in terms of political support for either the NCP or the SPLM, and therefore the single-member district will not present a significant obstacle. However, in Darfur political support is mixed. Therefore, without the representation of the IDPs, the final vote will likely reflect a skewed majority.<sup>2</sup>

Even if IDPs and other minority supporters voted in their current locations for a single party, because their presence is so dispersed the single-seat constituencies prevent them from gaining a seat. A 2007 study conducted by Tufts on IDP profiling showed that IDPs comprise 18-23% of the population in Khartoum.<sup>3</sup> However, only one district in Khartoum, Omdurman, has a majority of IDPs.<sup>4</sup> Therefore, unless carefully drawn, the single seat constituencies might marginalize these IDP voters.

Considering the complexity of the electoral law, the strong majority required to win one of the single-member constituency seats, and the potential disenfranchisement of IDPs, it is unlikely that under the current system a

delegation of representatives from Darfur could influence the legislative agenda. In fact, given current population estimates for North and Southern Sudan it is most likely that the NCP will retain a majority of seats in the NLA. Decision making in the NLA is determined by a simple majority vote, therefore minority voices are likely to remain powerless in the official legislative process.

Resigned to a minority role, opposition movements in Darfur have little to no incentive to participate in elections.

### **PRESENTERS' RECOMMENDATIONS**

*The following recommendations were drawn from the four presentations at USIP's workshop. However, they do not reflect a consensus opinion among the presenters.*

Given the security constraints, lack of potential political accommodation and minimal incentives for opposition movements to participate, the question remains if elections should be held in Darfur. The elections will most likely not be free, fair and inclusive without a peace agreement prior to the election. However, the majority of experts agreed that at least some elections must still be held in Darfur. Because the CPA requires elections, and absent a postponement decision by the CPA partners, a national election will be held. If those elections do not include Darfur, either side may reject the results as illegitimate and the situation may become worse.

With this mandate in mind, a number of measures can help ensure that elections in Darfur are as free, fair and inclusive election as possible.

- ***Consociational Agreement and Enhanced Decision-Making Procedures***

In order to provide for political accommodation and create incentives for opposition movements to participate in and trust the elections, political leaders in government and opposition movements need to establish arrangements that would allow at least conditional amendments to the current election system.

Similar to the proportional representation arrangements in the Belfast Agreement (1998) in Northern Ireland and the post-Transition Constitution of Burundi (2005), these amendments would put enhanced decision-making procedures in place to support the elections and bolster legitimacy, and may even have a limited duration. These mechanisms could include proportional representation of political parties or ethnic groups, requirements that key decisions pass with crosscutting community support, and the requirement of a two-thirds majority for passing legislation. With these enhanced-decision making rules in place, there is an improved chance to convince all parties involved that they will have something to gain in the elections, and that they have a chance to be represented at the national level.

In addition, this agreement could stipulate that for the 2009 elections certain aspects of the election law be simplified in order to ease the process in areas still experiencing conflict. For instance, these amendments could reduce the number of ballots and could ensure that the constituency districts have the same boundaries across the local, state and national levels.

For the upcoming election it is also necessary to ensure that IDPs have the opportunity to register to vote as residents of their district of origin. This means that included in the consociational agreement would be measures that allow exemptions for IDPs from the current requirements and instead provide a separate mechanism for ensuring IDP registration in their home constituencies.

- ***Civic education and confidence building measures***

As it stands, the election law is extremely complex. The National Elections Commission and election engineers will have to start working with the political parties and civil society as soon as possible to help them learn and navigate the system. This will help the movements build confidence that their voices can be represented through elections and will also establish expectations of what the elections can and cannot accomplish.

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In addition to working with the political parties and movements, there needs to be an extensive civic and voter education program so that every actor who wants to participate has as many opportunities as possible to get information, advice, and guidance on how to access the process. While Sudan has held a number of elections in the past, historically voters have not had to worry about advanced registration, computerized ballots or a multiple ballot election with complicated district demarcations. In the upcoming election voters will need to know, and trust, the ins and outs of the complicated system, from registering at least three months prior to the election to figuring out which ballots they will be casting on the state, local and national levels. Without extensive voter education, the results will likely not be accepted as legitimate.

- ***Logistics and Security***

Given the operational experience from the census and the difficult logistics and operations requirements for electoral preparations, from a purely operational standpoint, election in July is a deadline difficult to achieve. Preparations must be done carefully and take into account that at up to 50% of the southern villages are inaccessible by road during the rainy season between approximately March and November. Experience from the Census shows that mobilization of trained workers and delivery of materials is exceedingly difficult during these times. The optimal time for national operations from a mobility perspective is the dry season (December to March). While the effects of the wet season in Darfur are limited, it could limit access for many Darfuris to participate in what would hope to be fully inclusive nationwide elections.

For all operations, feasible timelines need to be put into place to ensure costs are reduced and plans can be carried out successfully. From this point on, elections officers need to begin making all the necessary arrangements, from shipping ballot boxes to establishing political party lists. One especially contentious issue that remains is that constituency boundaries have not yet been drawn.

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The experience in Afghanistan was that national and provincial elections took place as the boundaries had been delineated. However the more contentious district boundaries are still yet to be agreed on, four years after the last set of elections. As it stands there, district elections have not yet taken place and agreement on district boundaries is some time off.

When conducting elections in areas in Darfur where the conflict is ongoing, every aspect of the elections process will be a security issue. Election staff will need the full support of government officials, and will have to balance the precarious task of designating which security officials (peacekeepers, national military, local police, etc.) will participate in which elections operations. The elections that have had the most success in this respect have made security arrangements where international and state military officials have provided area security, local police provide specific point security, and election staff run the voting sites. Where there are not enough local police, as was the case in much of Afghanistan, security may be dependant on reaching agreements with local leaders to ensure their community security on election day. With this in mind, election officials will need to go as far out into the communities as possible to make these security “contracts” with the local population.

- ***Transparency***

In the areas where it will be absolutely impossible to conduct elections due to limited access and security, it is vital that election officials are extremely transparent and communicate with these communities as to what they can expect from the election process. This can help ensure that expectations match outcomes. For example, in the 2005 Iraqi elections two provinces were still experiencing violent conflict and elections could not be held in many communities. In Anbar province election managers clearly communicated the situation with the community and the results were accepted. In Ninnawa,

however, the situation was not clearly and widely explained and the results were eventually rejected.

Mechanisms can also be put in place to allow for interim representation in districts where elections are not feasible.

- ***Early Planning***

The day of the election is the culmination of months, if not years, of work and preparation. If the NEC officially requests international assistance, the international election team will need to become familiar with the situation on the ground as soon as possible and begin working to gain community support.

The legitimacy of the election will hinge on how the pre-election process is perceived. If there is significant violence, intimidation, or restrictions on freedom of movement or campaigning, no matter how smoothly the election day operations run the results will not be accepted as legitimate.

- ***Government Cooperation***

All of these stipulations will require cooperation from the Government of Sudan. From a logistical standpoint, electioneers will need support in establishing security and logistics, such as approving visas for staff and getting the required equipment through customs. On a political level, maintaining security and an atmosphere conducive to free and fair elections will require full government support for the elections process.

## **CONCLUSIONS**

Barring the achievement of a peace agreement for Darfur before the elections, these recommendations may provide for the best-case scenario for holding elections in Darfur. While a consociational agreement may be able to provide for the political accommodation of a Darfurian voice in the national area, the question remains as to how elections might contribute to repairing the social

framework within Darfur itself. The conflict in Darfur relates in part to inter-tribal and inter-ethnic relations. It remains unclear how elections may affect this dynamic. However, if minorities in Darfur do not believe that their voices will be fairly represented and they reject the legitimacy of elections, existing tensions will likely be exacerbated. If, on the other hand, election organizers are able to build trust among the Darfurian minorities that their voices will be heard, and help them access the elections process, the elections may instead provide a significant step forward in the peace process.

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<sup>1</sup> McHugh, Gerard "Electoral Reform in Sudan and Prospects for Peace in Darfur: Implications of The National Elections Act 2008 for the Darfur Political Process" (Conflict Dynamics International, 2008).

<sup>2</sup> Ibid.

<sup>3</sup> Jacobsen, Karen "Internal Displacement to Urban Areas--the Tufts-IDMC Profiling Study, Case 1 Khartoum, Sudan", (Feinstein International Center, Tufts University, in collaboration with Internal Displacement Monitoring Centre, Geneva, 2008)

<sup>4</sup> Ibid.

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## **ABOUT THE AUTHOR**

This *USIPeace Briefing* was written by Stephanie Schwartz of the Center for Mediation and Conflict Resolution. The views expressed here are not necessarily those of USIP, which does not advocate specific policies.

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