

# Elections in Sudan: Chaos Before Stability

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**In the present situation, with so many issues unresolved around the country, Sudan's complicated national elections would not lead to pluralism and democracy but rather to instability, further polarization, and post-election chaos. As currently planned, the elections would be a logistical nightmare for any country, let alone Sudan, leaving too much room for post-election manipulation of votes. The elections need to be postponed until after the 2011 referendum or simplified and held only for executive positions at this time.**

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Sudan's first multi-party elections in over two decades are planned for 11 April 2010. As stipulated in the 2005 Comprehensive Peace Agreement (CPA) that ended the north-south conflict, one of the bloodiest and longest on the African continent, the elections would give a chance to Sudanese to freely choose their own representatives for the first time since 1986. The elected officials would then be able to work on making unity attractive to the southerners who will vote in the self-determination referendum in January 2011 whether to remain in a united Sudan or form an independent country.

Edward Thomas notes that the elections were seen as "a means to ensure that the CPA has a popular mandate and that it is subjected to a review by the many groups that were excluded from its drafting."<sup>1</sup> Interestingly, during the negotiations that led to the CPA, the northern National Congress Party (NCP) and southern Sudan People's Liberation Movement (SPLM) were not in favor of holding national elections during the interim period. The elections were imposed on the parties reflecting the wishes of the international actors involved in the peace talks, particularly the United States.<sup>2</sup>

When the CPA was signed in January 2005, the elections, a key milestone in the peace process, were planned to take place in 2008 or no later than July 2009. That would give the people in Sudan between two and three years to experience life under some form of democratic and representative rule. With the elections now scheduled for April 2010, almost at the end of the CPA interim period and less than a year before the southern referendum, one must ask whether the complex and expensive elections are necessary at all. If Sudan proceeds with the elections, can they be free, fair, transparent, and credible? Will the elections lead to pluralism and democracy or plunge the country into post-election instability and chaos?

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<sup>1</sup> Edward Thomas. 2009. "Against the Gathering Storm - Securing Sudan's Comprehensive Peace Agreement." Chatham House. p.20.

<sup>2</sup> Jort Hemmer. "Ticking the Box: Elections in Sudan." Clingendael Institute. September 2009. p.3.

## **Census Disputes**

The National Congress Party and Sudan People's Liberation Movement, the two signatories of the CPA, are still in a deadlock over the population census conducted in 2008. The census results were to define electoral constituencies, affecting the number of parliamentary seats for which each Sudanese state would be eligible for. The SPLM rejects the census claiming "the NCP bloated figures for the north, especially for 'Arab' tribes in war-torn Darfur, which then reduced the south's proportion of the population."<sup>3</sup>

As Rebecca Hamilton writes in *Foreign Affairs*, if one is to believe the most recent census, the "Arab" nomadic population in South Darfur has increased by 322% since 1993, despite drought, displacement, loss of life, and conflict that ravaged this part of Sudan in the 1990s and most notably since the Darfur conflict broke out in 2003.<sup>4</sup> At the same time, the "African" population of Darfur has either remained the same or decreased.

## **Can the Elections be Free, Fair, and Credible?**

Can the April elections be free, fair, and credible in the eyes of the ordinary Sudanese? Gerard Mc Hugh from Conflict Dynamics International notes that, "if undertaken in a transparent, inclusive, and fair manner, elections will provide an unprecedented opportunity for participation by political parties, civil society constituencies, and voters in the political affairs of the country."<sup>5</sup>

Many huge obstacles still exist to holding free and credible elections in Sudan. According to a report on Sudanese electoral framework by Democracy Reporting International, "the general human rights context in Sudan is not conducive to democratic elections. Beyond the grave human rights violations of the Darfur conflict and the significant violence in Southern Sudan, there is little political pluralism and media freedom in the north."<sup>6</sup>

In the next few months, Omar al Bashir and the ruling National Congress Party (formerly known as the National Islamic Front) are expected to do anything to stay in power. After they had marginalized, neglected, and terrorized the majority of Sudanese for two decades, it is unlikely they will now have a large following in the country, despite their claim.<sup>7</sup>

However, they control all spheres of life in the north - the government, police, intelligence and security services, army, paramilitary forces, as well as state TV and radio, and business and financial institutions. Even though using state resources for electioneering is forbidden by the election law, no one should be surprised if the NCP uses all the above to its advantage. Jort Hemmer argues that due to its "control over the economy and state

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<sup>3</sup> "Political deadlock threatens Sudan's 2010 elections." Reuters. 3 November 2009.

<sup>4</sup> Rebecca Hamilton. "Sudan's Empty Election." *Foreign Affairs*. 24 December 2009.

<sup>5</sup> Gerard Mc Hugh, "National Elections and Political Accommodation in the Sudan." Conflict Dynamics International. Governance and Peacebuilding Series. Briefing Paper No. 2. June 2009. p.3.

<sup>6</sup> "Assessment of the Electoral Framework: Sudan." Democracy Reporting International. November 2009. p.19.

<sup>7</sup> A sign of NCP's desperation came at the end of January 2010, when the party asked the SPLM to withdraw its candidate for Sudanese presidency and support Bashir's candidacy. See "Bashir party 'backs former Sudan civil-war enemy.'" BBC. 28 January 2010.

apparatus," the NCP has "sufficient financial means to buy off potential adversaries, as well as the necessary tools to manipulate the electoral process and ensure victory."<sup>8</sup>

This election is a chance for Bashir to finally gain some legitimacy after 21 years in power, which he took in a military coup in 1989. The NCP leaders knew very well that they never had a chance of taking power through elections; that's why they took it by gun, "representing the interest of the military-security establishment and Islamist pan-Arab agenda."<sup>9</sup>

In 2009, the International Criminal Court issued an arrest warrant for Bashir for alleged war crimes and crimes against humanity committed in Darfur. President Bashir and his inner circle know that the only way to stay out of jail is to remain in power by any means. "Khartoum's security cabal and NCP operators are sufficiently powerful that they can thwart any plan if their core interests are not taken into account."<sup>10</sup> Opposition parties and local and international observers have already alleged widespread fraud, vote buying, and forged papers during the registration for the elections.<sup>11</sup>

Richard Cornwell, Africa expert at the Institute for Security Studies in South Africa, says we should expect some form of vote rigging by both the NCP and SPLM but that there is every chance these will not be allowed to get out of hand. He thinks both the NCP and SPLM have too much to lose if things go horribly wrong.<sup>12</sup>

One of the key post-CPA reforms was to be the removal or at least significant change of the strict security laws introduced after a group of army officers, led by Bashir and inspired by Sudan's Islamists, took power in the 1989 coup. This and other repressive laws, according to Abdullahi Gallab, gave the regime "ultimate power over all aspects of human life, welfare, discipline, and punishment."<sup>13</sup>

The "reformed" law, passed in December 2009 thanks to the dominance of the NCP in the national parliament, gives Sudan's intelligence and security services same wide-ranging search, arrest, and seizure powers. The only substantial change in the new law is that it shortens the amount of time suspects can be held in detention. Those who oppose the NCP argue that the reforms of Sudan's security laws do not go far enough and threaten to undermine freedom of speech and national elections.<sup>14</sup>

The SPLM and opposition parties fear that the security forces will "arrest anyone campaigning against the NCP and Bashir."<sup>15</sup> If the opposition parties cannot freely campaign across the country without fear of being arrested and

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<sup>8</sup> Jort Hemmer. "Ticking the Box: Elections in Sudan." Clingendael Institute. September 2009. p.15.

<sup>9</sup> Ibrahim Elbadawi, Gary Milante, and Costantino Pischedda. "Referendum, Response and Consequences for Sudan - The Game between Juba and Khartoum." World Bank. Policy Research Working Paper 4684. July 2008. p.5.

<sup>10</sup> Alex de Waal. "The Wars of Sudan." The Nation. 19 March 2007. p.20.

<sup>11</sup> "Sudan's elections need credible monitors: Britain." Reuters. 13 January 2010.

<sup>12</sup> Interview with Richard Cornwell. 22 January 2010.

<sup>13</sup> Abdullahi Gallab. 2008. "The First Islamist Republic: Development and Disintegration of Islamism in the Sudan." Hampshire: Ashgate. p. 133.

<sup>14</sup> "Sudan passes security bill despite protests." Reuters. 20 December 2009.

<sup>15</sup> "Sudan security law threatens free poll – SPLM." BBC News. 21 December 2009.

detained in the regime's jails and famous "ghost houses,"<sup>16</sup> it will be very hard to call the upcoming elections anything but sham and fraud.

## **No Freedom of Expression and Assembly**

Since 1989, people in Sudan have had no right to publicly voice their disagreements with the Islamist regime in public gatherings, protests, rallies, and demonstrations. The NCP does not allow this because it knows very well the power of Sudanese popular uprisings. Despite being as powerful and ruthless as the current regime, two previous military dictatorships – of General Ibrahim Abboud and General Jafaar Nimeiri – were toppled by the ordinary Sudanese in peaceful protests on the streets of Khartoum and other cities in 1964 and 1985 respectively.

In the beginning of December 2009, despite regime's ban, hundreds of members of northern opposition parties and the SPLM gathered in front of the National Assembly in Khartoum to peacefully demand electoral reform. In response, police fired tear gas and rubber bullets and beat the protesters with batons, arresting hundreds of them. Among the arrested were some leading SPLM politicians.<sup>17</sup>

This crackdown on the opposition took place despite the freedom of expression, association, and assembly guaranteed in Sudan's interim constitution. "The right of organizing and forming political parties, demonstrating, and freedom of expression are all embedded in the interim constitution," which the NCP has accepted and signed, according to Sudanese legal expert Mohmoud Shaarani.<sup>18</sup>

In mid-December 2009, Salah Ghosh, Omar al Bashir's adviser and former head of national security in Khartoum, announced that the central government would not allow any public demonstrations in the country, saying conditions were "not suitable for this form of expression."<sup>19</sup>

The NCP regime has also imposed significant limitations on the media. According to the Article 26 of Sudan's *Journalism and Press Publication Act*, journalists should "refrain from disseminating any matter that contradicts religion, good beliefs, traditions... [should] respect and protect public moralities and good conduct... [and] not violate core principles of public attitude." With such law in place, the regime's spin doctors and judges can take any news report covering campaigning by the opposition parties that is critical of the government and claim it goes against the law. Sanctions for infringement of the Act range from apologies to fines to criminal liability.<sup>20</sup>

If Sudanese cannot fully exercise their political rights and freely express

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<sup>16</sup> After the 1989 coup, hundreds of members of "student groups, unions, professional associations and political parties faced arbitrary arrest and disappeared in 'ghost houses' and prisons where they were tortured or killed." See "God, Oil, and Country: Changing the Logic of War in Sudan." International Crisis Group. Africa Report N° 39. 2002.

<sup>17</sup> "Sudan SPLM arrests spark southern unrest." BBC News. 7 December 2009.

<sup>18</sup> "Sudan: Khartoum Law Reform Protests - Opposition Says Heavy-Handed Government Response to Demonstrations Highlights Need for Change." allAfrica.com. 15 December 2009.

<sup>19</sup> "Sudan: Abuses Undermine Impending Elections." Human Rights Watch. 24 January 2010.

<sup>20</sup> "Assessment of the Electoral Framework: Sudan." Democracy Reporting International. November 2009. p.38-39.

opinions and disagreements with the current Islamist regime, how can anyone in Sudan and around the world expect free and fair campaigning and elections?

## **Darfur and South Sudan**

Many internally displaced people (IDP) from Darfur have refused to be counted in the 2008 population census or register for the elections in their current places of residence. Democracy Reporting International found that the IDPs don't want to "vote in their place of current residence but rather for candidates contesting elections in the place of their origin, as they may have a stronger nexus there and may wish for an opportunity to have a say on its political future." Sudan's Election Act, however, does not make any specific provisions for voting by millions of IDPs in their places of origin.<sup>21</sup>

Those in the Darfur region, where some 20% of Sudanese live, who have registered and would like to vote, will probably not be able to participate in the elections due to insecurity. The only group that will benefit if millions displaced by the current regime don't vote are the NCP and Omar al Bashir.

Not only that the national elections cannot be called credible without the Darfurian vote, but excluding Darfur from the electoral process could lead to more fighting and human suffering and even to serious calls for partition and self-determination of the neglected and marginalized province.

South Sudan will also face immense problems related to the elections. It is very likely that the Sudan People's Liberation Movement, former rebel movement still in the process of transforming itself into a political party, will try to sideline other parties by any means.<sup>22</sup> It is also possible that the SPLM, the dominant force in the south, will use the resources of the government of South Sudan (where the SPLM controls 70% of the institutions) for election campaigning, thus putting other political parties at a huge disadvantage.

Analysts claim that, over the years, some politicians across the south have exploited ethnic and tribal divisions among communities "in an attempt to shore up their constituencies and consolidate control before the polls."<sup>23</sup> As the elections approach, such manipulation could lead to violence in the volatile and diverse region. Other major problems in South Sudan are "an extremely fragile security environment"<sup>24</sup> in many areas, poor transport and communication infrastructure, and very limited voter education among the population, most of which is illiterate and will be voting for the first time ever in April.

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<sup>21</sup> "Assessment of the Electoral Framework: Sudan." Democracy Reporting International. November 2009. p.45.

<sup>22</sup> In the beginning of February 2010, Miraya FM, a radio station operated by the United Nations Mission in Sudan, reported that "harassment and intimidation toward opposition parties in South Sudan have cast a dark shadow over a decree that guarantees freedom for all political parties to conduct activities." See "Opposition political parties continue to face harassment in southern Sudan." Miraya FM. 6 February 2010. (<http://www.mirayafm.org/>)

<sup>23</sup> "Jonglei's Tribal Conflicts: Countering Insecurity in South Sudan." International Crisis Group. Africa Program Report N°154. 23 December 2009. p.13.

<sup>24</sup> "'There is No Protection' - Insecurity and Human Rights in Southern Sudan." Human Rights Watch. February 2009. p.15.

## **Complicated Elections**

Security, freedom of speech and assembly, and potential for vote rigging are not the only issues threatening the credibility of the elections. Some analysts think that the elections are not logistically feasible, calling them "the most ambitious and complicated in Sudan's history."<sup>25</sup>

Using a mix of majoritarian-proportional representation electoral system, about 17 million registered Sudanese will be voting for the president of Sudan, National Assembly, president of the government of Southern Sudan, Southern Sudan Legislative Assembly, and governors and assemblies for the 25 states of Sudan. In the north, voters will have to cast 8 separate ballots. In South Sudan, "where the UN reports a literacy rate of 24% (only 12% for women), voters are being asked to complete 12 separate ballots."<sup>26</sup>

The election administration will have to "design, print and accurately distribute 1,268 different types of ballots to the electoral districts, in a country [the largest on the African continent] where many state capitals are not easy to reach and only have limited access to electricity and communications. The multiple ballots will be sorted and counted in polling stations, many of which will have no electricity and might lack suitably trained polling staff."<sup>27</sup>

To show how long it may take to cast ballots in South Sudan, United Nations Development Fund for Women organized a mock voting process with women in one village in 2009 and found that it took close to 45 minutes for each woman to cast 12 ballot papers. According to the International Institute for Democracy and Electoral Assistance in Khartoum, on average, "an educated person will need 36 minutes to vote and an illiterate person could take twice as long because they would require assistance."<sup>28</sup>

Not only that the elections are not logistically feasible, but their complexity<sup>29</sup> leaves too much room for post-election manipulation of votes. This, in turn, can lead to bloodshed.

## **What after elections?**

Post-election counting of the votes could take a month or more given the large number of ballots and possible complaints by the parties. There is also a potential for having to organize second rounds for presidents of Sudan and South Sudan and state governors in case no candidate wins over 50% +1 vote. During this time, Sudan could face numerous claims of vote rigging, protests, and violence.

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<sup>25</sup> Elwathig Kameir and Alex de Waal. "The 2010 Elections in the Sudan: Landmines on the Road to Democratic Transition." Social Science Research Council Blog – Making Sense of Sudan. 8 April 2009.

<sup>26</sup> Rebecca Hamilton. "Sudan's Empty Election." Foreign Affairs. 24 December 2009.

<sup>27</sup> "Assessment of the Electoral Framework: Sudan." Democracy Reporting International. November 2009. p.7.

<sup>28</sup> Ruth Omukhango. "South Sudan: Complicating the Vote for Women." Inter Press Service. 12 September 2009.

<sup>29</sup> For more info on the complexity of Sudan's elections, see Gerard Mc Hugh, "National Elections and Political Accommodation in the Sudan." Conflict Dynamics International. Governance and Peacebuilding Series. Briefing Paper No. 2. June 2009.

What will happen after the votes are finally counted and no party wins the majority on the national and north/south levels, which is the most likely scenario? Will Sudan enter a period of peaceful coalition building, power sharing, and credible and functioning civilian democracy? Or will history repeat itself and the elections will lead to unstable coalitions, fighting over power, human rights violations, and yet another coup for "national salvation," as happened time and again in the past?

It is important to note that since the 1956 independence, Sudan had held a number of elections, but "no multi-party election has ever produced a stable government."<sup>30</sup> Alex de Waal writes that "democratic elections have not led to stability in the past and are unlikely to do so in the future."<sup>31</sup> There are many reasons for this, some of them being the sectarian nature of Sudanese politics and the inability of any party to win majority in the elections.

Even if the National Congress Party loses power in the April elections and accepts the results without fighting, one of the major problems any new government in the north would face is "how to de-NCPify Sudan after the NCP government is removed" and have control over the country and its institutions, as Andrew Natsios puts it. He rightly asks what to do with "one to two million Sudanese who together have been controlling all levels of the state for two decades, hundreds of thousands of agents and informants in the security and intelligence apparatuses, and a growing industrial complex"<sup>32</sup> fully controlled by the NCP.

## **Way Forward**

If the elections proceed as planned, the African Union, United Nations, and the wider international community need to take serious interest and send election observers. The observers should not be in Sudan only for the elections, but need to closely follow the campaigning process which starts in February, ensure fair access to the state media by all political parties, transparency of the electoral process, and freedom of speech and assembly.

International Crisis Group analysts argue that Sudan is not ready for elections in April and recommend that the elections should be postponed until November 2010. They think the parties in Sudan need more time to work on "outstanding major pre-electoral CPA benchmarks," such as "legal reforms guaranteeing basic freedoms of expression, association and movement and demarcation of the 1956 North-South border." In addition, they argue that "before free and fair elections can be held in Sudan, time is needed to negotiate a Darfur peace agreement."<sup>33</sup>

While the International Crisis Group is correct that the parties in Sudan need more time to work on many outstanding issues, it is hard to see the point of holding elections in November 2010, only a few months before the southern

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<sup>30</sup> "Elections in Sudan: Learning from Experience." Rift Valley Institute. 2009. p.9.

<sup>31</sup> Alex de Waal. "Sudan: What kind of state? What kind of crisis?" Crisis States Research Centre. April 2007. p.19.

<sup>32</sup> Andrew Natsios. "Beyond Darfur - Sudan's Slide Toward Civil War." Foreign Affairs. May/June 2008.

<sup>33</sup> "Sudan: Preventing Implosion." International Crisis Group. Africa Briefing N°68. 17 December 2009.

referendum.

The purpose of the first post-CPA elections in Sudan was to give the people a chance to experience life under representative and democratic government and give a chance to elected politicians to "make unity attractive" to the southerners. With the elections now scheduled for April 2010, almost at the end of the CPA interim period and less than a year before the southerners vote in the self-determination referendum, the elections need to be postponed until after the 2011 referendum or simplified and held at this time only for executive positions – president of Sudan, president of South Sudan, and state governors.

The time has run out to "make unity attractive" in Sudan as it will probably take a few tense months of vote counting, possible second rounds for presidents and state governors, and contesting of the results that there will be no time to make any meaningful difference before the referendum. Another reason for the postponement of the elections or voting only for executive positions is the fact that, in the case of southern secession, many of "the elected institutions would lose their relevance to a degree"<sup>34</sup> and new elections would be needed in both the north and south again in or after 2011.

In the present situation, with so many issues unresolved around the country, Sudanese national elections would not lead to pluralism and democracy but rather to instability, further polarization, and post-election chaos. Jort Hemmer thinks that "in Sudan's current complex and volatile environment, elections appear more likely to undermine than contribute to stability."<sup>35</sup> Furthermore, as currently planned, the elections would be a logistical nightmare for any country, let alone Sudan, leaving too much room for post-election manipulation of votes.

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**Note: The author writes this paper in his personal capacity.**

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<sup>34</sup> Sudan's interim Constitution provides only for the continuation of the presidency and national assembly in case South Sudan becomes independent. See "Assessment of the Electoral Framework: Sudan." Democracy Reporting International. November 2009. p.6.

<sup>35</sup> Jort Hemmer. "Ticking the Box: Elections in Sudan." Clingendael Institute. September 2009. p.25.