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Statement on Counting and Tabulation Processes for the Southern Sudan Referendum

Feb 14, 2011

The counting and tabulation of votes and the announcement of results for the Southern Sudan referendum represented the culmination of over six months of arduous work by the Southern Sudan Referendum Commission (SSRC) and Southern Sudan Referendum Bureau (SSRB). The SSRC and SSRB implemented the counting and tabulation processes in a manner broadly consistent with international standards and good practice. With 97.58 percent of registered voters turning out to vote, the final result of the referendum was 98.83 percent for separation,¹ overwhelmingly confirming the will of Southern Sudanese to form an independent state after the Comprehensive Peace Agreement's (CPA) conclusion on July 9, 2011.

Carter Center observers reported that referendum center (RC) staff were generally well-trained on counting procedures. Despite a few cases where RC staff did not correctly pack and reconcile materials, the transport of referendum materials was conducted efficiently. Further, the tabulation process was conducted professionally by data center staff, and in a way that ensured that the genuine will of the voters was expressed in the referendum results, consistent with Sudan's international commitments.²

The Carter Center commends the SSRC and SSRB for their steps to share information and cooperate with international and domestic observer groups and welcomed improved access given to observers during the counting, tabulation of votes, and announcement of results, which sets a positive example for future elections.

In spite of these achievements, some aspects of the tabulation procedure should be strengthened in advance of future electoral processes or referenda. In particular, election authorities should ensure that regulations and procedures regarding data processing and the review or audit of results are disseminated and explained to electoral stakeholders, and that they ensure adequate and transparent safeguards.

Finally, the Center notes with concern incidents of intimidation in the South during the referendum, which while isolated in a largely peaceful process, contravene Sudan's domestic and international human rights obligations.

In addition, the Center highlights the need for the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) to address key issues of citizenship and the rights of northerners and southerners in the two separate states that will exist after July 9, 2011. Both parties must clarify the

¹ This included 3,792,518 votes for separation out of 3,837,406 valid votes cast.

² International Covenant on Civil and Political Rights, Article 25.

current uncertainty for the thousands who will be affected, and ensure that mechanisms exist to protect the many social, economic, and personal ties between North and South. At the same time, South-South reconciliation must be prioritized to ensure that Southern independence begins on an inclusive basis.

In the current post-referendum period, the Center is very concerned about the more recent detentions of demonstrators without charge in Khartoum and clashes in Unity, Jonglei, and Upper Nile states leading to numerous casualties, and urges the authorities in Juba and Khartoum to ensure the full protection of these political rights and freedoms in the months ahead.

Counting and Reconciliation

Carter Center observers monitored counting at 41 RCs inside Sudan and 30 stations in out-of-country voting (OCV) locations. Dozens of follow-up visits were made to sub-committees and state referendum bodies in the North and South following the end of polling to observe the transport of materials and the aggregation of votes. Observers reported that RC staff largely adhered to proper procedures for counting, and that RC level staff counted invalid, blank, separation, or unity votes according to the procedures.

The subsequent reconciliation and packing processes were not conducted as smoothly as the polling and counting processes, particularly in Southern Sudan. As noted in the Center's Jan. 17 preliminary statement, Carter Center observers noted confusion at a small number of RCs where referendum staff did not correctly follow procedures for packing and delivery of sensitive materials to sub-committees and state referendum committees.³ In northern Sudan, counting and tabulation proceeded quickly and tabulation was completed everywhere except South Kordofan and Darfur by Jan. 17.

Retrieval of materials was completed in an efficient manner, and was a major reason for the timely release of results by the SSRB and SSRC. The SSRC, SSRB, and international technical advisors should be congratulated on executing the efficient return of materials from 2812 RCs across the country as well as the 188 RCs in OCV locations.

Tabulation

Carter Center observers reported that both the Khartoum and Juba data centers functioned generally in a smooth and credible manner. In addition, access for observers to the Juba data center was adequate to conduct their work, as all accredited international and domestic observers were allowed to observe at the data centers after a simple registration procedure. This was an improvement compared to more limited access that was provided during the voter registration tabulation.⁴

Quarantine and Audit Triggers

According to the data processing procedures, only RC results forms that had turnout greater than 105 percent were quarantined and slotted for investigation.⁵ Therefore, a number of RCs that reported total votes greater than the number of registered voters based on the tabulation of the final register (i.e. with turnout between 100-105 percent) were not automatically quarantined. This was the case in 267 out of 2,638 RCs in Southern Sudan, and collectively amounted to a total of 3,011 additional votes. Most of

³ Observers across Southern Sudan reported challenges with the tamper evident bags (TEBs) at a number of referendum centers. This included failure to place materials in TEBs overnight after counting and completion of the results forms (most continued to seal the materials in boxes), misplacing materials in different bags, and the sub-committees incorrectly opening the TEBs before they had reached the data centers. Observers reported that these errors appeared to be due to lack of training, and did not threaten the integrity of the counting and tabulation processes.

⁴ Initially, Carter Center observers were not guaranteed a permanent seat to observe in the Juba data center and were not allowed to bring into the data center observer checklists or pens. After raising this with the Bureau, these restrictions were lifted. During the polling tabulation, observer access was further improved by regular oral and written updates from the data center management.

⁵ When RC's results were quarantined, the SSRB excluded those results from the database and requested that the relevant State High Referendum Committee conduct an investigation to determine if the number of registered voters in the final voter registry matched the registration books at the RC, that the results forms were correctly completed, and there was not evidence of other irregularities. In most areas of Sudan, support was overwhelming for separation.

these cases reflected differences between the SSRC's registration data and the registration books used at the RC level, discussed in further detail below. Data center staff indicated that this high threshold for an audit was designed to accommodate inconsistencies in the voter registry, in light of the fact that voter registration results were received at the SSRB very late in the process, and in some cases with incomplete registration information. However, the procedures on data processing and review were not widely publicized nor well understood by referendum stakeholders.

In other electoral contexts in most countries, a polling center with results exceeding 95 percent for one candidate would normally be subject to an audit. The SSRC data processing safeguards were designed in a context where an extremely high turnout was expected, and where strong support for one option was widely anticipated. The Carter Center notes that in most other electoral contexts, these data processing procedures would not be appropriate and recommends that future electoral bodies in Sudan do not use this threshold as a precedent. Further, it should be made clear to the Southern Sudanese and future election administrations that the very high turnout and the results, resoundingly in favor of one option, are highly unlikely in truly competitive elections.

During data processing, 36 RC forms were quarantined for having more than 105 percent turnout, all in Southern Sudan. The SSRB investigation of these results determined that in all 36 quarantined cases, there was no evidence of manipulation. Of these, nine cases were determined to be clerical errors and remedied by data entry staff in Juba. In the remaining 27 cases, the SSRB reported that 25 cases were due to incorrect completion of registration results forms. The other two quarantined RCs had problems because of inaccurate completion of the polling results forms. Based on these investigations, the SSRB amended the final voter registry.

At the Khartoum data center, no result forms triggered the quarantine threshold.⁶ Forms from OCV were received online and went through similar procedures except that data entry completed with electronic forms was verified with originals from the OCV countries once received.

While the tabulation process was generally conducted in a transparent and credible manner, for future elections the Center encourages electoral authorities to ensure that procedures on tabulation and data processing are publicly disseminated and explained, and that they ensure adequate and transparent safeguards. This would promote good governance and contribute to transparency of the process.⁷

Discrepancies between Voter Registry and Results

The completion of a voter registry for nearly four million Southern Sudanese within the compressed referendum timeline was an impressive achievement by the SSRC, SSRB, and the people of Sudan. As noted in previous statements, the voter registration process was conducted credibly and was a strong step toward holding a successful referendum. The use of the registration booklets for the official registry and fixed voter registration sites helped reduce the enormous challenges experienced during the April 2010 elections. The referendum registration process was conducted in line with Sudan's international and regional obligations to ensure universal suffrage.⁸

Nonetheless, in a number of states in Southern Sudan, Carter Center observers reported that problems arose due to differences between the voter lists used by the RCs⁹, sub-committees, State High Referendum Committees (SHRCs), and the total registration figures compiled at the data center in Juba. The lack of clear communication between the SSRB and SHRCs regarding the final number of registrants led to

⁶ Some forms were temporarily rejected before correction because RC officials failed to write the correct RC code, the RC names were different from those on data center records, or RC codes on TEBs were different from the result forms.

⁷ Article 3 and 12 and of AU, African Charter on Democracy, Elections and Governance.

⁸ ICCPR, Art. 25; African Union Declaration on the Principles Governing Democratic Elections in Africa, Article 1.

⁹ Registration books and the list of corrections and deletions after the objections period

confusion among some RC staff in a few states about which registration number to use: the number from the registration books or the one they were given by the SHRC from the daily tracking figures during voter registration. This resulted in some RCs excluding voters from the registry, potentially turning away legitimately registered voters.¹⁰ In other RCs, additional ballots were cast, beyond the number in the SSRB final voter registry list.

Most of these problems are due to the short window between the creation of the preliminary voter registry and the start of polling.¹¹ Condensing what should have been a much longer period for reviewing the final voter registry and leaving only one day between the release of the final voter registry and the start of polling meant that there was not sufficient time to ensure that the results forms from voter registration accurately reflected the voter registration books at the local level.

Intimidation

In the weeks after polling, Carter Center observers reported a few isolated yet alarming incidents of intimidation related to the referendum. While rare, political opposition groups were targeted and victims were detained and beaten.¹² The Center emphasizes that violence and intimidation is unacceptable and detrimental to the democratic process, and contravenes Sudan's domestic and international human rights obligations.¹³ While these incidents were exception to the overall peaceful context of the referendum, there must be thorough investigations and responsible parties should be subject to criminal punishment in compliance with Sudan's obligations in the Interim National Constitution (INC) and international agreements to guarantee security of the person.¹⁴

Post-Referendum Detentions and Violence

In the post-referendum context, the Center is concerned about the recent wave of arrests and detentions without charge of peaceful demonstrators in Khartoum, the GOS and GoSS should take steps to ensure the full protection of political rights and freedoms. The recent clashes between the SPLA and armed groups in Unity State, Jonglei, and by southerners within the Sudan Armed Forces Joint Integrated Units in Upper Nile state suggests that there has been little progress since the positive resolutions from the south-south reconciliation process in which it was agreed that the various armed groups opposed to the SPLA would reconcile after an amnesty was extended by Salva Kiir. If these concerns are not adequately addressed, there is a danger that the positive spirit witnessed during the referendum could be challenged.

Citizenship and Status of Southerners in the North

As noted previously, the Center welcomes statements by President Omar al-Bashir and First Vice President Salva Kiir Mayardit guaranteeing the safety of northerners and southerners after the referendum. Unfortunately, these populations still face substantial uncertainty regarding what their status

¹⁰ In Unity and Northern Bahr al Ghazal, in some cases RCs were incorrectly instructed to adhere to voter registration figures from daily tracking totals or the SSRB's final list, even if these totals did not reflect the figures in the registration books. Observers noted general inconsistency with the final voter registry in Northern Bahr el Ghazal, in particular between a list prepared by the state based on total registrants at the RCs, seemingly accurate, and the SSRB's final voter registry. The Northern Bahr al Ghazal SHRC Chairman stated that the short time allowed for corrections and quality control as the main reason for inconsistencies between the lists. In Unity State, the SHRC operated with the daily tracking form instead of the final voters list from SSRB. In Pariang County, observers noted major variations with the final registration numbers in six out of 19 centers visited. RC staff informed observers that they had been instructed to use the registration number from the daily tracking form, even in cases where RC staff admitted the number given as the final registration number from the SHRC was inconsistent with the actual number they had registered. The SSRB final voter list was later found to be consistent in those cases with the number the RC informed the observers that they had registered, but that list was not known in the state.

¹¹ This window resulted from a long delay in starting referendum preparations and the political pressure to hold the vote January 9, 2011.

¹² In Western Bahr al Ghazal observers reported that NCP members, supervising accredited NCP observers, were arrested and beaten. The victims were accused of being spies, buying registration cards, and instructing people not to vote. They were released without charges. Upon meeting the victims, observers saw visible evidence of assault. The NCP in Wau also stated that on January 11, three accredited NCP observers were arrested, taken to secret location and beaten for three days before the governor ordered their release.

¹³ UN ICCPR, Article 25 (b); UNCAC Article 18.

¹⁴ Interim National Constitution, Article 23(2)b; ICCPR, Article 9.

will be once the independence of Southern Sudan creates two states from one. Continuing uncertainty is likely to create a volatile situation, and hasty returns will strain existing humanitarian capacity.

Moreover, there may well be a significant number of southerners living in Northern Sudan who wish to remain rather than return to the South. While an agreement on citizenship issues remains to be finalized, the NCP and SPLM should take immediate steps to ensure that mechanisms are put in place to ensure their rights are protected and that such measures are widely publicized. These could include guarantees of freedom of movement, instituting a common labor market, and ensuring rights for property ownership, such as currently exists between Egypt and Sudan.

Many other issues will need to be carefully negotiated so as not to cause economic or humanitarian problems. These include addressing the status of pensions of southerners in the army and civil service, agreeing on the timing and relocation of southerners from the SAF and national police to the South, and determining what arrangements or agreements will be put in place to manage cross-border relations.

Background on the Center's Referendum Observation Mission

In January 2011, the Center deployed more than 100 observers in Sudan and OCV locations, covering 24 of 25 States in Sudan and all eight OCV countries. Observers made more than 1100 visits to 790 RCs, representing 28 percent of all RCs in Sudan. In total, Carter Center staff and observers form a diverse group from 34 countries.¹⁵ Sixteen long-term observers remain in Sudan to report on the referendum process, and to observe the Popular Consultations in Blue Nile and elections in South Kordofan.

The Carter Center assesses the referendum process in Sudan based on the CPA, INC, Interim Constitution of Southern Sudan, Southern Sudan Referendum Act, and Sudan's obligations for democratic elections in regional and international agreements, including the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights. The Center conducts observation activities 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 endorsed by 35 election observation groups.

The objectives of the Center's mission in Sudan are to provide an impartial assessment of the overall quality of the referendum, promote an inclusive process for all Southern Sudanese, and demonstrate international interest in Sudan's referendum. Read the Center's reports on Sudan: www.cartercenter.org.

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. For more than 20 years, The Carter Center has worked to improve health and prevent and resolve conflict in Sudan. Please visit www.cartercenter.org to learn more about The Carter Center.

¹⁵ These countries include: Australia, Belgium, Benin, Cameroon, Canada, China, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, France, Georgia, Germany, Ghana, Ireland, Italy, Jordan, Kenya, Lebanon, Liberia, Mozambique, Namibia, Netherlands, Nigeria, Norway, Sierra Leone, Slovakia, Tanzania, Togo, Uganda, United Kingdom, United States, Zambia, and Zimbabwe.