



Understanding Sudan's electoral system: Principles of representation

This briefing is part of RVI's Sudan Elections Project, a short-term study on the history of elections in the country. The project examines the different factors that have shaped the course and consequences of elections in Sudan, while drawing out lessons to inform the programming and advocacy work of those hoping to ensure a successful transition in Sudan. Research is based on analyses of election-related documents and interviews with polling and electoral commission staff, candidates, political party members, civil society organizations, and journalists.

Introduction

Following the overthrow of President Omar al-Bashir in April 2019, Sudan began a process to transition to democracy. This is intended to include the creation of new legislative and judicial institutions, culminating in the holding of elections (tentatively scheduled for late 2022). Key amongst the challenges to address in the preparation of elections are the principles of representation and demarcation, which have been hotly contested in Sudan's previous polls. This briefing paper discusses how previous electoral systems in Sudan have addressed three key questions about representation and identifies some lessons that can be drawn from these in planning for the next elections. The questions are:

- Which political posts should be elected?
- What electoral system should be used?
- Who controls the details of electoral boundaries?

Which political posts should be elected?

There is a basic distinction between two previous approaches to this question in Sudan. In what are usually called the parliamentary periods (1956–58, 1965–69 and 1986–89) elections were held for parliament. There was no presidency; a council had the formal role of head of state. Whoever commanded a majority in parliament became prime minister and held significant executive power. In this period, parliament was supreme but the prime minister's position was always vulnerable to parliamentary intrigue and factionalism.

Under the presidential periods—the regimes of Gaafar Nimeiri and Omar al-Bashir—elections or referenda were held to directly elect the president. A national assembly was also elected but executive power—and control over resources—lay with the presidency.

Until the 1990s, lower-level elections were held for local governments with limited responsibilities. The 2005 constitution introduced a system of elections for state governments. These state governments nominally have more power than the old councils; they are elected in a way that parallels the national system (see below). State governors were also elected under this system—effectively as state executives, paralleling the president; this was changed in 2012 when governors became presidential appointees.

Lessons

Elected executives tend to accumulate power and influence. The decision to end the election of state governors was apparently intended to diminish the status of this post and prevent it from becoming a path to a national political role. Given the decision to reduce the number of states to six, elected state governors

would be prominent figures, and possibly provide an alternative focus of authority to an elected national president.

The reliance on sovereignty councils in the parliamentary periods was intended to prevent the concentration of powers in the hands of any one individual. This concern over the centralization of power by elected executive presidents seems an important and, in many ways, admirable principle, given the experience of authoritarian rule in Sudan during the presidential periods. However, in the absence of strong party structures, the vulnerability of executive prime ministers—who can lose their position through a parliamentary vote consequent on internal party factionalism—has at times made government difficult.

Elsewhere in Africa, presidential systems have tended to become the norm, in most cases with constitutional safeguards intended to limit the accumulation of power by the presidency. Those safeguards have often proved ineffective, given the patronage available to presidents.

What electoral system should be used?

Contested presidential elections have all been held with a requirement for an absolute majority: the winning candidate must receive 50 per cent plus one of the votes cast, with a second round between the two leading candidates being held if no candidate achieves this in the first round. A second round has never been necessary.

Until the late 1990s, Sudan's parliamentary elections mostly followed a first-past-the-post geographical constituency system: since 1965, all adults over 18 years of age have had the right to vote. There were limited exceptions: in the parliamentary periods, there were repeated experiments that favoured those with the highest level of education (in 1953, 1965 and 1986). Special 'graduates' seats were created for these voters, in which they had an additional vote. Intended as a counterweight to a popular vote that was perceived to be sectarian and tribal, the graduates' seats tended to be won by the best organized parties: most dramatically, by the National Islamic Front in 1986. Under Nimeiri, there were additional 'sectoral' seats in the national assembly for particular kinds of workers. Farmers, engineers, lawyers and other groups could vote for their representatives.

Intellectuals have argued that these non-geographical seats are necessary to counter tribal and sectarian politics. Geographical seats have often seen a politics of patronage, reliant on local big men, and may lead to the election of candidates who see themselves as delegates whose task is to secure the best deal for their community, rather than as representatives with a national outlook. The historic weakness of party politics in Sudan has partly arisen from this electoral reliance on local patronage networks.

Under the National Congress Party (NCP), a significant change was made to the electoral system. First-past-the-post constituencies were maintained but the national assembly was expanded to include members elected by proportional representation on a state level. Fifteen per cent of seats were given to representatives elected on a party list basis. Initially, 25 per cent of seats were given to women representatives (again, chosen on a party list basis). This has now been increased to 30 per cent, and the party representation to 20 per cent, so that half of the national assembly (213 out of 426 seats) were elected by proportional representation in 2015.

In 2010 and 2015—the only elections for which results have been provided in any detail—the proportional representation system overwhelmingly returned NCP candidates. This partly reflects the greatly superior resources and organization of the NCP, which was simply better at putting up lists of candidates for party and women's seats. It also reflects the particular system used to calculate seats (a version of the d'Hondt system), which favours large parties, and minimizes the representation of small parties and fragmented votes. For example, 17 per cent of voters in Khartoum state did not vote for the NCP in the women's list elections in 2010 but all 15 of those elected were from the NCP. NCP's success in these elections may also reflect rigging. It may be significant that in 2015, when non-NCP candidates won 63 of the 213 geographical constituencies, they won only 39 of the proportional representation seats.

Lessons

Proportional representation offers, in theory, the fairest approach to electoral choice. However, this is only really the case where parties offer some sort of real and predictable choice, since proportional systems almost inevitably rely on party organization to aggregate interests. It has also been argued that proportional systems can reduce popular involvement in elections—where voters can choose only a party, and do not have any sense of connection with an individual representative, and therefore may lose interest in participating. The hybrid system introduced under the previous regime—combining geographical constituencies, which give a sense of personal link with a balancing proportional representation element to mitigate the disproportionality of first-past-the post—seems to be in line with good practice elsewhere in the world. However, even this will tend to favour parties with a significant organizational reach; and given the experience of elections under the NCP there will likely be suspicion that a proportional representation system is being manipulated. Paradoxically, in current circumstances, representation—and popular confidence in the vote—may be best served by a geographical first-past-the-post ballot.

The proportional representation system was successful in greatly increasing the presence of women in the National Assembly. Geographical seats have continued to be overwhelmingly held by men, so the system risks entrenching a gender divide in representation. Noting this effect in 2010, the Carter Center suggested that moving to a system based entirely on geographical constituencies, but with a quota for women candidates, would be an alternative.¹ Quota systems of that kind would rely on robust party organizations, however, if the suggestion above for geographical first-past-the-post elections were adopted, a consequence of that might well be a fall in the number of women elected to the National Assembly.

Who controls the details of electoral boundaries?

The demarcation of geographical constituencies has routinely been controlled by the incumbent government and has repeatedly been used to secure partisan advantage. Under the current legislation, the National Electoral Commission (NEC) has control over this, and over the allocation of proportional representation seats. According to observers, the actual process has been delegated to the State High Election Committees (SHECs). The principles governing demarcation are set out in the 2008 Elections Act, sections 34-40. A 'national dividend' is calculated by dividing the total population by the number of geographical seats—the legislation assumes that a census will precede the demarcation exercise. Each state should be allotted geographical seats proportionate to its population. The number of proportional representation seats for each state is similarly calculated by reference to the national dividend, on the basis of the state population. Within each state, the demarcation of constituencies should ensure that none of them is significantly larger or smaller than the 'national dividend': the Act (section 38b) specifies that the variation should not be more than 15 per cent from the 'national dividend'.

In practice, that does not seem to have been the case. Reports on the 2010 elections reported a significant number of appeals over the process (the procedure for appeal is set out in the Act and a small number of these were upheld). More significantly, a large number of new constituencies were created after 2011. No new census was held, and it is unclear what population figures were used for this purpose. Going by registered voter numbers (actual population figures by constituency are not available) there appear to be some very substantial variations in the size of constituencies. The largest constituency (West Rural Kassala) had 146,700 registered voters while the smallest (Shattaya) had 15,850. The mean number of registered voters per constituency was 67,338 but 20 constituencies had more than 80,000 voters and 49 had less than 50,000 voters. This clearly suggests that section 38b of the Act was not followed. It has been argued that some of these constituencies have been designed to reward particular ethnic groups and/or their leaders, by assuring them a seat in the Assembly. The AU report on the 2015 elections notes that there were concerns over this but provides no detail.² The mapping of constituencies also lacks clarity: this was noted by observers of the 2010 elections who pointed out that this left unclear which constituency some towns and villages lay in.³ The situation seems to have been worse for 2015. The available maps are large-scale, lack any detail, and in some cases the boundary lines are unclear.

Lessons

The current demarcation of geographical constituencies seems to violate existing law, and to run against some core principles about equality of representation. Demarcation should be entirely redone, and should be transparently based on reliable and recent census data. The current legal arrangement, under which the NEC is responsible, is in line with wider practice, but confidence in the process will rely on popular confidence in the NEC itself. Delegating aspects of the process to state level may be necessary, but if that is the case then there must be consistent and robust central oversight to ensure consistency. Demarcation is likely to be a time-consuming and contentious process, and should be an early priority of election preparations.

The law currently allows only 30 days from the publication of plans for appeals to be lodged. A time limit seems appropriate, however, a longer period would be desirable, and should be accompanied by the publication of much more detailed information about each constituency, and the dissemination of this information. That will not forestall complaints—indeed, it would probably enable them. However, it would improve public participation and may help increase trust in the process.

Conclusion

Previous experience in Sudan—and comparative lessons from elsewhere—point to the need to balance conflicting concerns in making some basic decisions on who should be elected, and how.

On who should be elected, a decision must be made on the balance between elected executive(s), who have historically tended to personalize power, or parliamentary systems which have historically tended to instability.

On how they should be elected, decisions must be made on the balance between proportional representation systems which favour organized parties, and first-past-the post systems, which have historically led to an under-representation of women and have encouraged patronage politics but may be more transparent and mobilize popular electoral involvement. Whatever the chosen balance, early attention must be given to the demarcation of constituencies.

Notes

- 1 The Carter Center, African Union Election Observation Mission to the April 2015 Presidential and Parliamentary Elections in the Republic of Sudan: Final Report, Atlanta, Georgia: The Carter Center, July 2015, 17.
- 2 African Union Commission, *Observing Sudan's 2010 National Elections, April 11–18, 2010: Final Report*, African Union Commission, 2010, 4, 15.
- 3 The Carter Center, *African Union Election Observation Mission*, 21.



Credits

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