



Elections in Sudan: Between a rock and a hard place by Justin Willis

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Rift Valley Institute
institute@riftvalley.net
+44 (0) 20 7229 2562

SUMMARY

In April 2009 the Rift Valley Institute published a report which examined the problems faced in Sudan's previous elections, from the pre-Independence election of 1953 to the most recent (in 2000, an election boycotted by all major parties). The report recommended urgent action to address the calamitous organizational difficulties confronting the Electoral Commission in Sudan and the threat of malpractice. Six months later, Sudan apparently remains unprepared for the elections, and comprehensive and effective measures against possible malpractice have yet to be taken. There is a growing danger that the elections will bring the whole electoral process into disrepute in Sudan. A perception among Sudanese voters that the authorities are incompetent or corrupt, or both, could well mean that some major political actors, and a large number of ordinary people, will refuse to recognize the results.

The international community faces a stark choice between supporting an election that may well be seriously flawed, and abandoning a key component of the CPA. If the election does go ahead, the international community must support detailed monitoring of the electoral processes, beginning with the registration, and prepare themselves for the increasing likelihood that there will be major defects in the process. In particular, the international community should learn from the mistakes that have already been made in the conduct of the elections and start preparing now for the referendum.

INTRODUCTION: THE SIGNIFICANCE OF ELECTIONS

Since their introduction in the nineteenth century, elections by secret ballot have proved a powerful tool for reshaping political relationships in some countries. Elections are powerful institutions because they offer a dramatic public performance of the state's ability to create and maintain order; and a lesson for the public in responsible citizenship. The secret ballot gives the individual a sense of a direct relationship with government, the chance to take an individual decision away from the scrutiny of family, employer, priest or secret police. It offers a chance for the state to show its ability to organize the event in a way which makes possible this private moment of individual choice. Despite concerns over falling participation rates in Europe and North America, there can be little doubt that the secret ballot has been a crucial element in political continuity and stability: elections by secret ballot may not have a magic power to remake politics overnight, but they can play a central role in the reordering of political culture over a period.

But elections by secret ballot have also proved dangerous in some countries, on some occasions. Their success in generating new political cultures in the world outside Europe and North America has been patchy. Elections are, in some cases, the single most testing organizational experience which a state faces, for they involve multiple processes of registration, identification and ordering; and demand speed, efficiency, uniformity of process and consistency of experience for the voter. Should elections fall obviously short of the ideal meeting between a responsible citizenry and an efficient ordering state – if they are badly organized, if people cannot participate, and/or do not have a sense of their individual involvement – then they undermine the legitimacy of government and the sense of citizenship of the population as a whole. The morale of public servants is corroded, public belief in the abilities of the state and in the legitimacy of the government is dissipated.

THE HISTORY OF ELECTIONS IN SUDAN

The Comprehensive Peace Agreement has provision for national elections in Sudan to precede the referendum on the future of the south, which implicitly recognises the potential role of elections in the remaking of political culture, and in the particular circumstances of the CPA, their possible role in providing a favourable context for the referendum. Elections should provide a practical experience of organizing a secret ballot, and could assist with the elusive goal laid down in the CPA of ‘making unity attractive’. Although it has been widely suggested that the provision for elections was inserted at the insistence of the international sponsors of the peace process, and that neither the SPLA nor the then Government of Sudan particularly supported the idea, it is still the case that both the SPLA and NCP continue, at the formal level, to express their commitment to the idea of elections. The elections, then, may be seen as potentially a pivotal moment in the whole CPA process.

It is in this context that the Rift Valley Institute undertook research on the history of elections in Sudan. The research showed that this history manifests both the potential power and the danger of elections. There have been a number of multi-party elections in Sudan over the last six decades, and a larger number of elections and referenda under authoritarian regimes; in every case, the secret ballot has played a prominent part in the electoral performance. In some cases, the multi-party elections have shown the power of the secret ballot in generating a sense of commitment on the part of public servants and involvement among at least some of the population: the experience of the 1953 self-government election undoubtedly helped create the momentum for the creation of a united and independent Sudan. But these elections have also illustrated clearly the ways in which malpractice and failures of organization may compromise the electoral process, turning it into a performance of exclusion and state incompetence and partiality, rather than efficiency and individual involvement.

There has been a degree of malpractice in all Sudanese elections. This malpractice has frequently been exacerbated and, made easier and less detectable by failures of organization. In multi-party elections, there has been repeated gerrymandering, and at a local level candidates and their agents have in places encouraged multiple registration, impersonation and multiple voting. On occasion they have used challenges to voters’ registration in a tactical way to disrupt the opposition. The level of these problems seems to have grown from the 1950s to the 1980s (when the last multi-party election was held).

In elections and referenda under authoritarian regimes – in the Nimeiri period, and since 1989 – malpractice has been particularly widespread, in every conceivable sphere: control of the press, preventing candidates from standing, restricting campaigning, using state resources to support approved candidates, falsifying voters lists, intimidating voters at the polling station, stuffing ballot boxes, and straightforward ballot box switches. Some of these elections have nonetheless offered a degree of local choice. In the Nimeiri period, for example, there was a choice of individual candidates for election to the People's Assembly. And there is some evidence of popular subversive use of the ballot to challenge the government, for instance in the rumoured mass spoiling of ballots in 1996. But malpractice has been pervasive enough to have made all Sudanese suspicious of whether any election can offer genuine choice. When it comes to the present election this historical accretion of distrust cannot be ignored.

Organizational challenges have compounded all other problems. Registering voters, and preparing adequate registers for use at polling stations, has been an immense task, and there have been consistent difficulties with registers in all elections. In some parts of the country there have been recurrent logistical challenges over establishing and staffing polling stations. Because of shortages of staff and transport – which have made it impossible to have enough polling teams for everyone in the country to vote on a single day - all elections that have taken place in Sudan have been staggered, with polling stations being open over several days and moving from place to place. In some cases, war has compounded the problems, but even where there has not been war, making sure that polling team arrives on place on time, and has the correct materials to take the poll, has been a challenge that has often not been met.

There is evidence both in multi-party elections and in those that have taken place under authoritarian regimes of considerable failures to organise the basic aspects of polling. Officials have, understandably, tended to gloss over these failings in reports, since there is an inherent tendency to assume that so long as some kind of poll was taken, the electoral performance has been completed. But this has meant the exclusion of many people. It robs the process of its power and contributes to a profound demoralization among public servants, for whom the election confirms their sense that they work for a state which is both incompetent and reliant on pretence. The political problems of Sudan are not, of course, simply a result of these electoral failings. But it is striking that no multi-party election – with the partial exception of that in 1953 – has produced a government stable or credible enough to address these problems, or one that has commanded sufficient popular support to protect it against military overthrow. In Sudan, elections have never realized their potential to reshape the political culture and encourage the development of a relationship between a responsible citizenry and an efficient and impartial state.

LEARNING FROM EXPERIENCE?

For the reasons outlined above, the Rift Valley Institute's report, *Elections in Sudan: Learning from experience*, called for urgent action in a number of areas to improve the organization of the forthcoming election and the political environment on which it takes place. The authors of the report

felt that the need was particularly urgent because of the history of electoral failure in the country and the immense complexity of the voting system as set out in the National Elections Act.

Under this system, the election, or rather elections - which are now scheduled to be held over several days – will involve a number of distinct ballots for different levels of government. In northern Sudan, there will be elections for national president, state governor, and for the national assembly and state assembly. The national and state assembly elections, furthermore, will each involve three distinct ballots, as those bodies will be composed of representatives selected by three systems: first-past-the-post geographical constituencies; party lists elected on a proportional basis at state level and women's lists elected on a proportional basis at state level. This will mean that each voter in northern Sudan will have to cast eight ballots in the course of the elections, under three different voting systems. In southern Sudan, there will also be elections for the post of president of southern Sudan and for the Southern Sudanese assembly (the latter, again, having three types of representation). This will mean that each voter in the South will have to cast twelve ballots.

This is an immensely complex system. It is being applied in a country with a history of bureaucratic failure even in straightforward electoral processes. And the election takes place under the aegis of a government that is an uneasy coalition between two parties recently at war. Polling officials must explain balloting to a population which – in some parts of the country – has no previous direct experience of secret ballots and is largely illiterate and unversed in most kinds of bureaucratic procedure.

The challenges are not insurmountable, and with adequate preparation and resources it is reasonable to say that it would have been possible to hold the elections by the book. However, the call for urgent action on the part of the international community made in the RVI report in April – a call that was echoed by a number of other bodies – has not been answered. While there has been a certain amount of training of polling staff and party officials and some voter education programmes, reports suggest that the various efforts of donors, NGOs and UN agencies have not been adequate to the scale of the task. Campaigns of public information and the provision of technical resources to the Electoral Commission are well below the levels needed. The voter registration process is about to begin, on 1st November; the progress of this will offer an immediate test of the organizational arrangements so far, and there are considerable concerns over whether this operation will go well. The fear is that – unless circumstances change very rapidly and substantially – it is now simply too late to make necessary arrangements, either in terms of creating a free and fair environment, or in terms of bureaucratic organization, to make elections in April 2010 a success in terms of widespread participation and a sense of involvement across the country.

This creates a dilemma. The elections can, of course, still be held, and, such is the political momentum of the CPA, it is likely that they will be: it is possible that they will be cancelled, but neither of the principle parties will wish to take responsibility for this, because it will offer political capital to their opponents, and the international sponsors of the CPA will also find it difficult to call for cancellation, which would deny the people of northern Sudan any chance of voting at all under the CPA process, and would undermine the possibility of any constructive political opposition developing in southern Sudan.

It is also likely, however, that there will be very substantial problems, and the likelihood of these is increased as time slips by and an increasing sense of hopelessness grips all involved; the elections have now the air of a train crash which we are powerless to prevent. Registration and identification difficulties will mean that at a large number of polling stations staff will either have to deny many people the right to vote – because their names are not on lists – or will allow anyone to vote, and face accusations of malpractice. Shortages of staff and resources and the complexity of the voting process will mean long queues, and polling stations not opening when and where they should. The difficulty of explaining the systems will compound these delays and queues, and may mean that many people do not manage to vote, or spoil their votes unintentionally. There will, undoubtedly, be many accusations of unfairness and problems, because the environment is very evidently not free and fair and malpractice seems entirely likely; in some cases organizational failures may be interpreted as malpractice. But it seems likely that the elections will go ahead, ballots will be cast (one way or another) and counted, and it is probable that the NCP will do well in the election in the north, and the SPLM in the south, as both parties enjoy multiple advantages in the respective parts of the country.

All possible courses of action are problematic in these circumstances. The elections cannot be further postponed. To hold them between May and October would be almost impossible, because the rains impede travel, and to delay them until November would make them impracticably close to the referendum. As noted above, all involved would find it difficult to suggest abandoning the elections. The international community is thus committed to the holding of elections which – unless there is a very sudden change - are likely to see considerable organizational problems and malpractice, if they go ahead. Observers and the international sponsors of the CPA will then face a difficult decision. If they wait until the last moment, as results are being declared, and then take the position that the elections were not credible, they will themselves be accused of partiality, and such a declaration will further endanger the CPA. If they decide that it is better to try and keep the CPA alive by announcing that the elections were acceptable, they will be denounced by multiple voices inside and outside Sudan, who will be able to identify multiple problems with the processes of the elections. In either case, the elections are most unlikely to offer a useful practical rehearsal for the referendum – since voters' experience is unlikely to be good, and poll staff are likely to have a difficult and disheartening time. Nor are they likely to create a sense of citizenship or enthusiasm for unity. Disputed elections, in addition to creating widespread dissatisfaction and – possibly – threatening a breakdown of the whole CPA process, may have a negative effect on the referendum by giving many potential voters and poll officials an experience of the secret ballot which will be disappointing and disheartening, and by squandering both resources and international good will.

CONCLUSION

The elections, if properly organized, could have offered the possibility of a new kind of political process in Sudan. Many Sudanese in north and south would have welcomed this. It is to the credit of the guarantors of the CPA that they pressed for the inclusion of an electoral process in the CPA. But the opportunity for a properly organized election may now be irretrievably lost – close scrutiny of the registration process over the next two months will reveal whether this is the case. It behoves the

guarantors of the CPA, and Sudan's other international well-wishers, to give thought to the possibility that the elections will go badly, and consider how to manage this increasingly likely outcome.

The international community will probably find it impossible to recommend the abandonment of the elections, though it seems very likely that they can no longer fulfil the purposes for which they were presumably intended. Given this, we would strongly urge that the international community should instead act immediately to ensure the monitoring and documenting of the processes of the election, with care and without prejudice, and make the results of this observation public in a timely manner, so that the lessons learned can be applied to the next phase of the peace process. Any evidence of significant failure of organization or malpractice in registration needs to be clearly indicated without glossing over the realities on the ground. Likewise, there needs to be rigorous observation of the actual ballot process. Any continued international support for the elections needs to be linked to this day-to-day monitoring process, and to a willingness to withdraw endorsement from some or all of the processes. The existing electoral observation programme being implemented by the Carter Center should be scaled up and complemented. If the elections are not conducted to proper standards, this should be stated clearly – whether the problems are a result of poor organization or malpractice. This clarity is necessary because one or more parties will claim a popular mandate on the basis of the elections, and others will undoubtedly challenge this; the international sponsors will face a difficult position whatever happens, and ambiguity or uncertainty over the status of the elections will make this worse.

These measures cannot avert the problems which are likely to mar the elections, but they might mean that the elections could help, rather than hinder, the referendum. That is, if extensive and dispassionate observation of problems in the election could be used to provide an impetus for changes to the organization of the referendum, remedying procedural failures and obvious loopholes for malpractice that stand revealed in the elections. Whatever the outcome of the referendum, it is of paramount importance that it should be unambiguous: the current suggestion for a simple majority decision with a requirement for a threshold turnout raises the uncomfortable possibility of an inadequate or disputed turnout and subsequent dispute. It may be too late for the elections to have the effect they once promised, but it is not too late to ensure that the referendum is held properly.

Justin Willis is Professor in History at the University of Durham, and immediate former Director of the British Institute in Eastern Africa. He is a specialist on the history of Sudan, and the history of elections in eastern Africa more widely. In 2008-9 he was the lead researcher on a DfID-funded project which explored the history of Sudan's elections with a view to helping inform the preparations for the coming elections. He was lead author of the resultant report, Elections in Sudan: Learning from Experience, published in April 2009. The statement above is a reflection on the current situation in the light of this report. The statement reflects Professor Willis opinions, not necessarily those of all three authors of the original report. The original report, Elections in Sudan: Learning from Experience, can be downloaded from the Rift Valley Institute website (www.riftvalley.net).