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Carter Center Finds Southern Sudan Voter Registration Credible, Strong Step toward Referendum despite Some Weaknesses

Carter Center Preliminary Statement on Voter Registration Process for the Southern Sudan Referendum

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In a statement issued today, The Carter Center reported that although the voter registration for the Southern Sudan Referendum on self-determination faced several logistical, procedural, and security challenges, the process was generally credible and represents a strong step toward the successful conduct of the referendum. At the same time, the Center noted that the ultimate success of the voter registration process will depend on the final stages of completing the voter list.

Carter Center observers reported that referendum centers generally opened on time and with appropriate materials across Northern and Southern Sudan, and that Southern Sudanese have had adequate opportunities to register. The Southern Sudan Referendum Commission (SSRC), the Southern Sudan Referendum Bureau (SSRB), and their subsidiary bodies worked hard to support the smooth operations and timely opening of registration centers across Sudan, with officials responding appropriately to most of the challenges that arose during the registration period. In the overwhelming majority of locations, registration was conducted in a peaceful environment, with the notable exceptions of security incidents in Akobo and Kiir Adem in Southern Sudan. Carter Center observers also noted a few isolated incidents of intimidation, but did not report any systematic attempts to undermine the process. Although the identification and appeals processes did not always adhere to the voter registration regulations, the vast majority of Southern Sudanese were able to participate in the registration process.

As the population of Sudan moves closer toward the final phase of implementation of the Comprehensive Peace Agreement (CPA), it is critical that key political issues are

resolved. Most significantly, the two CPA parties should urgently resolve the ambiguity surrounding the future of Abyei and the citizenship of nationals in both Northern and Southern Sudan before the referendum. Also important is the inclusion of the entire Sudanese population in the debates surrounding unity or secession. The possible secession of Southern Sudan is an issue of critical significance to the future of the country, and all segments of Sudanese society should become actively engaged in the process.

The Carter Center noted the following key issues during the voter registration process that should be addressed urgently to facilitate a smooth and peaceful referendum.

- Both the Government of Sudan and the Government of Southern Sudan should denounce any intimidation tactics and emphasize their commitment to a free and fair referendum that accurately reflects the will of the Southern Sudanese people.
- Referendum administration bodies, government, and civil society actors should urgently intensify voter education to advise registered voters where polling will take place in areas where the referendum centers were mobile or were moved. Voter education efforts should also inform the population about the one-week voting period to ensure voters do not overload referendum centers on the first day, and also about the expected timeline for the announcement of results to calm anxieties that could arise during the long results tabulation process.
- The referendum administration should make contingency plans to address possible shortages of materials and problems with retrieving data from remote referendum centers during polling.
- The referendum administration should also take steps to ensure that all referendum staff is paid so that the polling process is not interrupted due to discontent over lack of payment.
- The SSRC and SSRB should ensure that sufficient additional staff is hired to facilitate the smooth management of the polling process.
- More women should be hired as referendum center staff ahead of polling to promote greater participation of women in the referendum process.
- Steps should be taken to expedite accreditation for domestic observers and to clarify the role of political party representatives in the referendum process.
- Actors in Northern Sudan should refrain from recording the names and registration details of persons when they come to vote as it is often perceived as intimidating.
- Representatives of the international and domestic media should act with sensitivity and responsibility when reporting on the referendum process.

The Carter Center observed the voter registration for the Southern Sudan referendum on self-determination from Nov. 15–Dec. 8, 2010. Across Sudan, more than 50 observers made approximately 1300 visits to referendum centers in 24 out of 25 states.¹ The Center also deployed 26 observers to the eight nations where out-of-country registration was

¹ Carter Center observers did not visit referendum centers in West Darfur.

conducted. These observers visited a large majority of the overseas registration centers. The analysis and recommendations included here are based upon the direct observations of the Center's observers. Final conclusions about the voter registration will depend on assessment of the comprehensiveness and accuracy of the voter registry, including effective resolution of complaints.

In response to an invitation from the SSRC, The Carter Center initiated its referendum observation activities in Sudan in August 2010, subsequently deploying long-term observers in September. The Center assesses the referendum process in Sudan based on the Comprehensive Peace Agreement, Interim National Constitution, Southern Sudan Referendum Act, and Sudan's obligations for democratic elections contained in regional and international agreements, including the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.² In total, Carter Center core staff and observers form a diverse group from 28 countries.

The objectives of the Carter Center's observation mission in Sudan are to provide an impartial assessment of the overall quality of the referendum process, promote an inclusive process for all Southern Sudanese, and demonstrate international interest in Sudan's referendum process. The Carter 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.

Read the Center's full report at www.cartercenter.org.

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Carter Center Preliminary Statement on the Voter Registration Process for the Southern Sudan Referendum

Based on field observation through Dec. 15, The Carter Center reports that the voter registration process for the Southern Sudan referendum on self-determination has been generally credible and is a strong step toward the conduct of a successful referendum. The process faced some procedural challenges - particularly in the application of the identification, eligibility, and appeals regulations – as well as a few security incidents. The Carter Center also observed some isolated cases of intimidation by representatives of the Government of Sudan and the Government of Southern Sudan, but finds that these incidents did not fundamentally undermine the success of the process to date.

As the exhibition process and data compilation continue, The Carter Center commends the members of the Southern Sudan Referendum Commission (SSRC), the Southern Sudan Referendum Bureau (SSRB), the Government of Sudan (GoS), and the Government of Southern Sudan (GoSS) on the successful conduct of the registration efforts up to this point. The Center notes that the ultimate success of the voter registration process will depend on the final stages of completing the voter list. Going forward, the Center recommends the following steps be taken ahead of polling to facilitate a strong and inclusive referendum process.

- It is critical that key political issues are resolved. Most significantly, the two parties to the Comprehensive Peace Agreement (CPA) should urgently resolve the ambiguity surrounding the future of Abyei and the citizenship of nationals in both Northern and Southern Sudan before the referendum
- The Carter Center urges the GoS and GoSS bring all sections of the Sudanese political community into the process, utilizing the reach of civil society and the resources of the governments.
- Both the GoS and the GoSS should denounce any intimidation tactics and emphasize their commitment to a genuine referendum that accurately reflects the will of the Southern Sudanese people.
- Referendum administration bodies, government, and civil society actors should urgently intensify voter education to advise registered voters where polling will take place in areas where the referendum centers were mobile or were moved. Voter education efforts should also inform the population about the one-week voting period to ensure voters do not overload referendum centers on the first day, and also about the expected timeline for the announcement of results to calm anxieties that could arise during the long results tabulation process.

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- Representatives of the international media should act with sensitivity and responsibility when reporting on the referendum process.

Citizenship

Citizenship continues to be a major source of concern for many Southern Sudanese. The Carter Center emphasizes the vital importance of resolving issues of citizenship prior to the referendum. Indeed, failure to resolve this could result in Southerners hastily relocating to the South and potentially overloading state governments that are still building capacity following years of war.

Against that background, it is unfortunate that politicians in the Sudan People's Liberation Movement (SPLM) and National Congress Party (NCP) have attempted to use this issue and the fears it arouses among the people to advance political objectives. While there have been constructive statements from GoS President Omar Al-Bashir and GoSS President Salva Kiir on citizenship, other ministers or senior party members have made statements likely to create fear and uncertainty. The Carter Center urges the senior leadership in Khartoum and Juba to reassure Southerners and Northerners that their rights will be protected and that, in conformity with international legal obligations, no Southerners resident in the North will find themselves stateless and vice versa for Northerners in the South, irrespective of the outcome of the referendum. This ensures Sudan abides by a fundamental international legal principle, that everyone has a right to a nationality, and no one shall be arbitrarily deprived of his nationality.³ The Center urges the two governments to move quickly to reach an agreement on this vital issue to ensure that Sudanese are fully informed about the positions of both governments on citizenship and so that Southerners can make an informed vote in the referendum.

³ Universal Declaration of Human Rights, Art. 15 (1948).

Referendum Administration

Officials from the SSRC, SSRB, and their subsidiaries demonstrated strong commitment to the success of the voter registration process. They worked long hours and actively responded to new challenges as they arose. The Carter Center observed SSRB training officials monitoring the registration procedures and providing advice and assistance to the registration staff to help them accurately follow the procedures. This assistance seemed to help registration staff properly follow procedures.

At the end of the first week and continuing into the second and third weeks of registration, Carter Center observers reported increasing shortages of registration materials in certain states in Southern Sudan, including Unity and Central Equatoria. Registration was temporarily disrupted in some referendum centers in Western Equatoria, Western Bahr el Ghazal, Lakes, Upper Nile, Jonglei, and Central Equatoria for this reason. In most cases, the SSRB responded to the shortage in a timely manner, supplying centers with additional materials. Although initially disorganized, these efforts improved over time. In anticipation of the referendum, the SSRB should take note of certain remote areas where the greatest logistical difficulties occurred, such as in Jonglei, and ensure that appropriate resources are allocated so as to allow for the full participation of all registered voters.

Public Relations. Referendum administration bodies were only partially successful in providing regular public information on the process. The SSRB held bi-weekly press conferences in Juba and provided regular updates on the progress of the voter registration process. These press conferences represented a positive step toward increasing the transparency of the referendum administration. The SSRC initially provided regular updates to the media, but these became less frequent during the voter registration process. Similar and increased efforts should be made during the pre-polling and polling periods.

Administration and Management of Information. The SSRC adopted regulations on voter registration just before the start of registration but after the training of referendum center staff. Carter Center observers noted that the regulations were not well communicated to referendum center staff. However, since the regulations did not change the registration procedures substantially from what was outlined in the registration training manual, the lack of information did not significantly affect the performance of the registration procedures. Carter Center observers noted that officials communicated the extension of the voter registration to referendum center staff in a haphazard method, resulting in anxiety on the part of staff as to how the extension would affect their salaries. The SSRC should adopt regulations on polling well ahead of the start of polling so that referendum staff can fully familiarize themselves with the procedures.

Referendum administration bodies experienced difficulties in contacting referendum centers in certain areas of Southern Sudan, in particular parts of Warrab and Jonglei. Daily reporting of registration numbers was inconsistent and in some places impossible. The communication gap was narrowed by the deployment of satellite phones after the start of voter registration. However, Carter Center reports indicate that many of these phones were not properly activated or provided sufficient phone credit. In anticipation of

the referendum, officials should deploy additional satellite phones with adequate credit to reach all referendum centers. In addition, officials should take measures well in advance of polling to ensure optimal communication between the SSRC, SSRB, and the referendum centers, including increased training on reporting procedures and the creation of plans for physical retrieval of information.

The referendum administration, particularly the SSRB, faced challenges securing funding to pay referendum center staff in a timely manner. Although the GoSS has committed funding to the SSRB to enable it to carry out the referendum, the GoSS itself faced problems making the cash available to the SSRB due to delays in cash transfers from the national government. Both governments should immediately make available to the SSRC and SSRB the funding necessary for proper management of the referendum. Carter Center observers reported many instances where referendum center staff criticized the slow process of salary payments. In 53 percent of all referendum centers visited by observers, officials had not received their correct salaries on time.⁴ Payments to identifiers were handled in varying ways and should be clarified ahead of polling. Referendum administration should take action to increase the advance portion of salary payment so that lagging salary payment does not interfere with the process.

Access of observers While most of the members of the State High Committees, State Referendum Committees, County Sub Committees, and referendum center staff were extremely welcoming to international observers, in eastern Jonglei, Western Equatoria, and Juba county, Central Equatoria, there were some incidents of inhospitable behavior and actions intended to prohibit the access of observers, despite clear stipulations in the CPA and the SSRC's observer regulations calling for full access by observers.⁵ The Carter Center raised these issues with members of the SSRB, who promised to address them with the appropriate parties.

Intimidation

⁴ On the opening day of registration, only approximately five percent of the referendum center staff in centers visited by The Carter Center in Southern Sudan had received payment, an issue that led to the temporary closure of registration centers in Unity State on the second day of registration. The SSRB subsequently agreed to pay staff in Southern Sudan 20 percent of what they were owed initially and to pay the remaining 80 per cent at the end of registration. However, Carter Center observers reported that referendum center staff in a number of rural areas of Southern Sudan still had not been paid by the latter part of registration including areas of Central Equatoria, Jonglei, Lakes, Raja County in Western Bahr el Ghazal, and Western Equatoria.

⁵ Comprehensive Peace Agreement, Machakos Protocol, 2.5 (2005) (stating that the Southern Sudan Referendum shall be "internationally monitored"); Observer Rules and Regulations, Art. 5(1) (stating that accredited observers, "[e]njoy the right to enter in any referendum centre at any time during the voter registration, polling, sorting, counting of votes, and announcement of the preliminary results").

A referendum staff person in eastern Jonglei was hostile to Carter Center observers and said without provocation that he could deny them access to referendum centers. In Western Equatoria, the State High Committee released a memo on data collection that stated that "All referendum partners, staff, UN, and NGO agencies are not allowed to access information and data on voter registration except through the office of the chairman and State High Referendum Committee." The position put forth in this memo contradicts the SSRC's rules and regulations regarding observers and their role in the process and should be rejected by the SSRB. Lastly, at a referendum center in Juba county, a chairperson refused to share information with Carter Center observers and claimed that international observers had to stay 10 meters outside of the center during the process, in contravention of the Southern Sudan Referendum Act, observer regulations, and the registration training manual.

Although The Carter Center is aware of reports and allegations of intimidating behavior practiced by agents of the SPLM, NCP, and security forces in Northern and Southern Sudan, observers were only able to confirm a few of these cases. Carter Center observers confirmed what appear to be politically motivated arrests of five NCP members in Eastern and Western Equatoria and Jonglei. Carter Center observers also reported incidents of government-sponsored intimidation in Shendi, River Nile state, and Omdurman, Khartoum state, in which soldiers and other government workers were told that they would not receive their salaries if they did not register. Although The Carter Center did not observe a systematic pattern of intimidation, where such behavior occurs, it undermines full participation in the referendum process and is contrary to Sudanese and international legal obligations, which require that everyone be allowed freedom of expression without fear of interference and that other rights necessary to freedom of expression be respected.⁶ The Carter Center calls on the Government of National Unity and the GoSS to denounce such tactics and demand that government representatives refrain from intimidation before, during, and after during the polling period.

The Carter Center is also concerned about intimidating rhetoric prevalent in Western Equatoria aimed at the Jehovah's Witness congregation for their decision to refrain from referendum registration for religious reasons. The decision of Yambio County to suspend all church activities of the congregation, including church services, meetings on the church compound, and any other activities of Jehovah's Witnesses undermines the freedom of expression and association of populations with opinions divergent from the mainstream.⁷ The Carter Center calls upon all stakeholders in Western Equatoria to respect the right of all individuals to participate in or refrain from the referendum process.

Voter Education

Carter Center observers noted very little involvement by referendum administration bodies in voter education until the start of registration; voter education efforts are necessary to ensure an informed electorate is able to effectively exercise the right to vote.⁸ Almost all of the preparatory voter education activities in Southern Sudan were conducted by civil society groups such as the Sudanese Network for Democratic Elections, My Referendum for Freedom, and Youth for Separation. The latter two organizations often mixed voter education activities with advocacy in favor of secession. Once voter registration started, voter education activities increased with a variety of actors leading efforts in Southern states including local chiefs, churches, women's groups, the SPLM, and members of the state or county referendum taskforces.

Voter education was very poor throughout Northern Sudan. Carter Center observers reported a significant lack of understanding by Southerners in Northern Sudan as to whether they were eligible to participate in the referendum and how to register.

⁶ The Interim National Constitution of the Republic of the Sudan, Art. 29, 40, 41 (2005); Southern Sudan Referendum Act, Art. 7(a) (2009); International Covenant on Civil and Political Rights, Art. 19, 22, 25; African Charter for Human and Peoples' Rights, Art. 6, 10, 13.

⁷ CPA, Machakos Protocol, 6.2; Interim National Constitution, Art. 38; ICCPR, Art. 18; African Charter, Art. 8.

⁸ ICCPR, Art. 25; United Nations Human Rights Committee, General Comment 25, paragraph 11.

According to Carter Center observers, Southern Kordofan was the only state in Northern Sudan with active and consistent voter education efforts, conducted by CSOs, throughout registration. Voter education efforts intensified, particularly in Khartoum, as registration continued with active involvement from civil society groups, the SSRC, and the NCP. However, outside Khartoum, few voter education activities were conducted with the exceptions of Karma and Dongola, Northern state and Shendi, River Nile state, where a local NGO, churches, and sultans conducted voter education efforts.

As the government, referendum administration and civil society prepare for the polling process, they should make efforts to clarify to the population two key issues regarding the referendum timeline, in line with Sudan's international obligations to take necessary steps to ensure sufficient civic and voter education for all citizens.⁹ First, that polling is planned for Jan. 9-15. Given the significance attached to the date of Jan. 9, it is probable that enormous crowds of voters will turnout to vote on this day, unaware that the process continues for six additional days. To prevent crowd control problems, those conducting voter education should clarify that the polling lasts for seven days.

Second, according to referendum administration staff and international technical advisors, the compilation and processing of results of the polling may last two to three weeks. All actors involved in voter education should inform the Southern Sudanese people about this timeframe so that the lag time in the announcement of results does not lead to suspicions of malfeasance.

Identification

Carter Center observers noted inconsistencies in the application of identification procedures. Many Sudanese claim they can tell who is a Southerner by the way they look and speak. The regulations require that an applicant provide either official identification documents or verification of the applicant's identity by a designated identifier. This process was intended to ensure that minority groups such as permanent residents, who may not have the physical and linguistic characteristics presumed of Southern Sudanese, are able to participate fully in the process in keeping with Sudan's international obligations to allow citizens the right to participate in the public affairs of their country.¹⁰

Carter Center observers reported that potential registrants did not have their identity confirmed either by documents or by an identifier in over one third of the visits to referendum centers in Northern and Southern Sudan, despite the SSRA and SSRC regulations requiring official documentation to confirm identity or otherwise oral or

⁹ The African Charter on Democracy, Elections, and Governance (Signed June 30, 2007) Article 12(4) (requiring signatories to "implement programmes and carry out activities designed to promote democratic principles and practices and consolidate a culture of democracy...integrate civic education in their education curricula and develop appropriate programmes and activities"); *United Nations Human Rights and Elections*, paragraph 87; ICCPR, Art. 2.

¹⁰ African Charter on Human and Peoples' Rights, Art. 2, 13; United Nations Human Rights Committee, General Comment 25, para. 11 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service" (providing that "[w]here registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.").

written testimony from a chief, sultan, other dignitary, or concerned member of the community.¹¹

Although the majority of centers visited by Carter Center observers had identifiers present, there were none in some visits observers made to centers in Gezira, Khartoum, Lakes, Jonglei, Upper Nile, Southern Kordofan, Unity, and Western Bahr al Ghazal. In these centers, observers reported a few cases in which applicants lacking identification documents were prevented from registering as no identifier was present to verify their identities, despite the SSRA provisions allowing for community leaders to fill the role of identifier when none was readily available.¹² These individuals – though not a significant number – may have been unfairly excluded from participating in the process, in contravention of domestic and international obligations requiring that Sudan take necessary steps to ensure the realization of rights, including the right to self-determination.¹³

Appeals and Exhibition

Although the number of persons denied participation in the registration process constitutes a relatively low percentage of the persons who tried to register, the appeals process for such individuals presented a widespread and consistent set of procedural errors witnessed by Carter Center observers during the voter registration process. The appeals process as determined by the SSRA is critical to the integrity of the larger process in that it helps ensure that eligible Southern Sudanese have a right to an effective remedy when barred from participation.¹⁴ Very few people who were deemed ineligible by the chairs of the referendum centers received the rejection forms that were supposed to be the first step toward submitting an appeal.¹⁵ Officials frequently did not record the names of rejected applicants in the registration journal nor did they keep a running tally of the numbers of persons rejected at each center.

The consideration committees, or bodies formed in each referendum center to consider the validity of a rejection, were nonexistent in both Northern and Southern Sudan at the start of registration. The Khartoum State Referendum Committee initially told Carter Center observers that the law had been changed and that there would be no consideration committees in Northern Sudan. Carter Center observers reported a lack of consideration committees in Northern Sudan for the majority of the voter registration process. Only South Kordofan had established a consideration committee in the third week of registration. By the last week of registration, most Northern states had taken steps to create these bodies. Observers were told in South and North Darfur and in parts of

¹¹ Southern Sudan Referendum Act, Art. 26; SSRC Voter Registration Regulations. .

¹² Article 26 of the Referendum Act and Article 11 of the SSRC Voter Registration Regulations provide that in the event of absence of identification document or the oral or written testimony of an identifier, “[r]eferendum Centre Committee shall seek the assistance of the Sultan or concerned Chief of the village as the case may be.”

¹³ Southern Sudan Referendum Act, Art. 27; ICCPR; Art. 2(2); International Convention on the Elimination of all forms of Racial Discrimination, Art. 1.

¹⁴ SSRC Voter Registration Regulations, Art. 16, 17; ICCPR, Art. 2(3). .

¹⁵ SSRC Voter Registration Regulations, Art. 17 (stating “In case of denied registration the Chief of the Referendum Center shall immediately issue a written notice stating the cause for such denial and inform the applicant about his right to petition to the Consideration Committee”).

Eastern Equatoria that consideration committees would be established only at the end of registration.

As registration continued into the second week, officials started to establish consideration committees in Southern Sudan, namely in Eastern Equatoria, Northern Bahr al Ghazal and Western Bahr al Ghazal. However, officials appeared confused about the role of the committees, and how they were constituted and managed. In Central Equatoria and Upper Nile, officials told Carter Center observers that the consideration committees would be set up at the county level.

Exhibition. Carter Center observers noted that most of the referendum centers they visited throughout the country did not have the required notices posted indicating the dates of exhibition. During 74 percent of Carter Center visits to referendum centers during voter registration, no notice of exhibition was posted.

Additionally, in Khartoum, Kassala, North Darfur, South Darfur, and Red Sea state, referendum center staff members went beyond mandated procedures by reproducing the registration lists by hand for the exhibition period. Although this practice was intended to make it easier for the public to review, it raises concerns because errors are far more likely to occur when names are re-recorded onto a separate document and the transcription generally occurred when registrants were no longer watching to ensure that their names and information were recorded correctly.

Objections and Appeals. Referendum administration bodies and civil society have provided limited voter education on the exhibition and appeals timeline and processes. Referendum staff and considerations committees in the South continue to exhibit varying degrees of understanding of the exhibition and objections period. As a result, adherence to the regulations for exhibition and objections at referendum centers varies significantly. In addition, the altered timeline for exhibition, corrections, and objections was not well communicated to referendum center staff in the South leading to confusion and delays in the exhibition process in some areas.

So far, Carter Center observer reports indicate that the exhibition and objection period is running smoothly in the North; in the South, the operation of referendum centers vary substantially. Many Southern referendum centers have not begun exhibition and discontent over lack of payment of referendum officials has inhibited exhibition in some areas. Voter lists are not posted in many referendum centers, making it difficult for voters to look at the preliminary register for the purpose of objection. Carter Center observers noted that some referendum officials in the South stated that voters are only permitted to review the preliminary register for their names, but not the names of others.

Both referendum officials and the general public lack knowledge of the court appeals process at the local level. The Carter Center recommends the SSRC, the National Supreme Court, and Southern Sudan Supreme Court urgently release information about the competent courts so individuals wishing to submit appeals are aware of how, where,

and the timeframe within which to do so. This will help ensure compliance with Sudan's international commitments requiring the right to an effective and timely remedy.¹⁶

The Carter Center is aware of a number of complaints about the referendum process that have been filed with Sudan's Constitutional Court and news reports indicate that the Court has agreed to hear one of the cases. Although Carter Center observers have requested additional information about the complaints, they have not yet received copies of the complaints.

Eligibility

As mentioned in a previous Carter Center statement, the criteria governing eligibility to participate in the referendum should have been more clearly defined and communicated. Although the SSRC provided a clarification of the eligibility criteria on Oct. 24, several questions were not explicitly resolved at that time, including one-parent heritage and Ngok Dinka registering outside Abyei. During registration, Carter Center observers noted confusion in Kassala, Khartoum, Southern Kordofan, and Upper Nile about the eligibility of persons with one parent from the South. The Carter Center welcomed the SSRC's subsequent action on Nov. 23 to inform all State Referendum Committees (SRCs) in Northern Sudan that any Sudanese with one parent from the South (regardless of whether it was the mother or father) was eligible to register for the referendum.

Notably, referendum center staff in Gezira, Khartoum, River Nile, and Southern Kordofan seemed confused as to the eligibility of Ngok Dinka from Abyei living in outside of Abyei. The inconsistent application of the eligibility requirements to the Ngok Dinka and other people deemed by referendum center staff to originate from Abyei may have unfairly excluded some eligible persons from the process, which stands in opposition to Sudan's commitments to ensure that Southern Sudanese can exercise their fundamental political rights.¹⁷

In Jonglei and Unity states, observers reported some cases of underage registration but the numbers of such incidences were fairly low. In several cases in South Kordofan and Northern Bahr al Ghazal, applicants perceived to be underage were turned away. In Unity State, in most referendum centers all applicants were asked if they would be in the same location on Jan. 9 before they were allowed to register. The exclusion of potential applicants on this basis would constitute a violation of the guidelines governing eligibility and may have resulted in the exclusion of some eligible participants.

Location of Referendum Centers

Many participants in the registration process complained to Carter Center observers about the location of referendum centers throughout Northern and Southern Sudan. In

¹⁶ Southern Sudan Referendum Act, Art. 31; SSRC Voter Registration Regulations, Art. 20; ICCPR, Art. 2 (providing a right to legal redress); A Handbook on the Legal, Technical, and Human Rights Aspects of Elections A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 114 (stipulating that "Anyone alleging a denial of their individual voting or other political rights must have access to independent review and redress").

¹⁷ Southern Sudan Referendum Act, Art. 25; ICCPR, Art. 1,25; Convention on the Elimination of All Forms of Racial Discrimination, Art. 5.

Khartoum, Omdurman, Gezira, Gedaref, Southern Kordofan, and White Nile, registrants told observers that the centers were located far from the major concentrations of Southerners. In Gezira, Khartoum, and White Nile, centers were moved during registration to make them more accessible to Southerners. While this was a positive attempt to ensure greater inclusion, the State Referendum Committees should ensure that prior to polling, notices are posted in the previous locations to clearly inform voters of their relocation.

In Southern Sudan, registrants complained that there were too few centers as compared to the number put in place for the April 2010 elections and that the existing centers were far away from rural populations. This sentiment seems to have led some referendum teams to operate as “mobile centers” to improve access to registration for rural populations. Carter Center observers saw several mobile referendum center staff in Eastern Equatoria, Lakes, Northern Bahr al Ghazal, Jonglei, and Central Equatoria. In Sennar state in Northern Sudan, all of the referendum centers were mobile in order to reach as many Southerners as possible. The members of the referendum administration that made the decision to have mobile referendum centers seem to have been driven by good intentions to include rural populations. However, in these cases it is important for referendum officials to increase their voter education efforts to inform voters in these areas where to cast their ballots.

Prison Registration

The Carter Center welcomes the decision of the SSRC to register eligible members of the prison population, a strong step toward ensuring equal suffrage for eligible voters, including those with special needs.¹⁸ Registration of prisoners was observed in Khartoum, Gezira and Central Equatoria, and seems to have been managed smoothly.

Women’s Participation

At the start of registration, Carter Center observers reported very low numbers of women turning out to register in Southern Sudan. However, as the registration period continued, observers reported increasing numbers of women and in some cases noted higher numbers of female registrants than male. Carter Center reports also indicate a low number of female staff in the referendum centers in both Northern and Southern Sudan. In Kassala, the Raja area of Western Bahr el Ghazal, and South and North Darfur, there was few female referendum center staff. In Unity State, observers were told that in accordance with sub-committee directions, women could only serve in the “Registrar 2” position, and at the sub-committee level women were only finance or administrative officers. The Carter Center urges referendum administration officials to increase the number of female officials, including in senior positions as they recruit additional team members for the polling period. This will help ensure Sudan fulfills its domestic and international commitments to ensure the equal participation of women in public affairs.¹⁹

¹⁸ See generally, ICCPR, Art. 25; United Nations Human Rights Committee, General Comment 25; Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 110.

¹⁹ Interim National Constitution, Art. 32(1), 41(1); UN ICCPR, Article 3; Protocol to the African Charter on Human and Peoples’ Rights, Art. 2.

Turnout in the North

Very few registrants turned out to register in Northern Sudan in the first week of the registration period. As the Eid-al-Adha holiday came to an end and information about registration spread, the turnout increased, though it remained far below the number of estimated eligible voters in Northern Sudan. While there may be a variety of issues involved, a number of factors appear to have contributed to the low turnout, including poor voter education, anxieties of Southerners in the Northern states regarding their future status, and an increasing focus of Southerners in the North on repatriation to the South ahead of the referendum. Although not observed, Carter Center received some credible reports indicating that the SPLM encouraged Southerners in the North not to register. If these reports are accurate, then these activities could also partially account for the low turnout.

Parallel Registration

Carter Center observers reported a number of instances where parties other than referendum administration bodies recorded registrants' information, often directly outside referendum centers in Northern Sudan. While such activity – sometimes referred to as parallel registration – is not technically illegal, in some cases it can have an intimidating effect since it is often interpreted as a way of maintaining unwanted scrutiny on potential voters. This is especially true if the purpose of the activity and the identity of those conducting it are not clearly explained to registrants. The Carter Center observed parallel registration conducted in Gezira, Khartoum, Northern Kordofan, and River Nile. A variety of actors were involved in parallel registration efforts, including Popular Committees, representatives of the Government of Southern Sudan, representatives of the NCP, local chiefs, the High Commission for Peace and Unity and the National Students' Union. Those responsible for parallel registration should make clear the purpose of such efforts during registration and refrain from conducting any similar activities around the polling.

Finally, in some isolated cases in Khartoum, observers noted that those conducting parallel registration kept the registration cards of the persons whose names were recorded. Such instances constitute a serious obstacle to open participation, and referendum officials should take appropriate action to ensure that registrants possess their own cards in advance of polling day.²⁰

Political Parties

The SSRC decision not to issue specific regulations guiding the role of political parties in the voter registration process and to accredit political party representatives as domestic observers under their party's name, contributed to significant confusion regarding the affiliation of different types of domestic observers in the referendum centers. Carter Center observers reported that it was difficult to clarify whether observers were members of political parties or domestic observer groups. This issue became more problematic

²⁰ Southern Sudan Referendum Act, Art. 7 (such practices would challenge the “appropriate environment and security conditions in order to prepare and organize the free exercise of the right to self-determination”).

when some of these observers seemed to cross lines by interfering in the registration process or participating in parallel registration. The lack of clear affiliation made it difficult to assign responsibility for these activities.

There was no clear and systematic communication to political party members or to State High Referendum Committees about the right of political party members to participate in the process as domestic observers. The absence of specific accreditation procedures for political parties also led to an unclear, delayed, and sometimes failed accreditation process for political party agents seeking accreditation as domestic observers.²¹ Ahead of polling the SSRC should consider distinguishing the role of the party agent from the role of the domestic observers and should require all present in referendum centers to clearly state their institutional affiliation.

Campaigning and media

Although released one month after the start of the campaign period, The Carter Center welcomes the adoption of media campaign regulations by the SSRC. The regulations provide for the establishment of a “media committee,” which will be critical in the conduct of public awareness and monitoring the manner in which the referendum process is covered by the media in Sudan.²²

Carter Center observers have reported a moderate amount of campaign activity in Southern Sudan but only a minimal amount of campaign activity in Northern Sudan. In addition, Carter Center observers reported that some local civic organizations in the Khartoum area appear to have misunderstood the campaign period, believing that campaigning should begin only after the conclusion of voter registration.

All of the campaigning observed by The Carter Center in Northern Sudan has been in support of unity and almost all of the campaigning observed in Southern Sudan has been in support of separation. Some representatives of Northern-based opposition parties in Southern Sudan reported to The Carter Center that they feel that campaigning in support of unity would not be accepted in the current political and social environment in Southern Sudan. Although The Carter Center did not observe systematic restrictions on the ability to express support for unity in Southern Sudan, it is clear that the enormous social support for the separation option could prevent people from comfortably speaking out in support of unity.

Media coverage. At the start of registration, Carter Center observers noted that members of the domestic and international media acted intrusively in Juba, interfering in the process to take pictures of people registering and conducting interviews with referendum center staff at the height of the registration process. The Carter Center urges members of the media to demonstrate respect for the referendum process while performing their duties, particularly during what will likely be a high-volume polling day on Jan. 9.

²¹ Members of the SPLM-DC were denied accreditation in Jonglei because they were deemed by the SHC to not be a legitimate political party.

²² Southern Sudan Referendum Commission Media Campaign Regulations 2010, Art. 4.

The Carter Center remains disappointed by the prevalence of media coverage that seeks to emphasize the potential for volatility rather than the progress that has been made toward implementation of the referendum. The Carter Center calls on representatives of the media to provide balanced and accurate coverage of the referendum process.

Participation in the Referendum Process

The referendum to determine whether Southerners wish to remain within a united Sudan on the basis of the present arrangements or to secede and establish an independent state is stipulated in the Comprehensive Peace Agreement (CPA) to fulfill the democratic rights of Southern Sudanese for self-determination.²³ As a democratic exercise there have been some notable gaps in participation of the people of Sudan, as seen in the somewhat limited involvement of Southerners in Northern Sudan in voter registration and the lack of involvement of some of the main political opposition parties in the process.

The possible secession of Southern Sudan is an issue of critical significance to the future of the country, and all segments of Sudanese society should become actively engaged in the process. Informed decision-making requires that voters understand the implications of both options. To this end, The Carter Center recommends that civil society actors and the governments in Northern and Southern Sudan organize public debates and other informational fora to provide public information about the referenda options.

Domestic Observers

The Carter Center welcomes the significant participation of a variety of domestic observer groups observing the voter registration process in Northern and Southern Sudan. At the same time, the Carter Center was disappointed that the accreditation process was delayed for many domestic observers in the South. Although many observers were given a letter from the SSRB that allowed them to observe without SSRB-issued badges, it would have been preferable for the SSRB to expedite accreditation. The SSRC and SSRB's decision to decentralize the accreditation of observers to the state level is a positive step towards allowing observers to access credentials in their home areas. As the domestic observer groups prepare to recruit significant numbers of new observers for the polling process, authorities should ensure that the state committees have the requisite materials to issue accreditation expeditiously.

The Carter Center is concerned that the reported requirement of photos for the accreditation of domestic observers for the polling process will result in the exclusion of observers from areas where photo printing is not accessible. The Carter Center urges the SSRC to forego this requirement and to adopt an expedited process of accreditation to allow maximum participation for domestic observers.

Role of Security Forces

The security forces that provided security during voter registration played a generally positive role in the process and refrained from interfering in the registration. These members of the security forces should be acknowledged for respecting the integrity of the

²³ Comprehensive Peace Agreement, Machakos Protocol, 1.3, 2.5.

referendum process. However, Carter Center observers witnessed a few incidents in Northern Sudan where security forces played an inappropriate role in the opening and closing of referendum centers by recording the serial numbers of seals used to secure registration kits.²⁴

Out of Country Voting (OCV)

Throughout the registration process, The Carter Center has maintained an international presence²⁵ in all eight countries in which an out-of-country (OCV) registration facility has been operating and visited the large majority of the registration sites in OCV countries.²⁶

The Carter Center found the OCV process generally well-managed, credible, and peaceful with the exception of some security incidents in Uganda. The final assessment on voter registration in OCV will depend on an evaluation of the final voter registry.

Compared with SSRC and IOM's planning figures for eligible overseas voters, actual registration levels have been very low, which could mean that the initial figures were overestimated. The referendum administration faced difficulties in making assessments of the potential numbers eligible voters in each country as the relevant data was collected from a number of official and unofficial sources.

At the same time, a number of factors may have discouraged registration. In several of the OCV countries Carter Center observers heard reports that some Sudanese believed that since OCV registration and polling results are to be entered in Khartoum rather than Juba, the figures would be manipulated in Khartoum to favor unity. In Uganda, this appears to have led some eligible people to register in Southern Sudan. Reportedly, many people took advantage of the transport provided by the SPLM to facilitate registration inside Sudan.²⁷ While these sentiments did not affect overall participation level, they are likely to have decreased the OCV registration level. In the three East African countries, long distances, difficulties in paying for public transportation, and obligation to harvesting duties were often cited as reasons for Southerners not showing up to register in large numbers.

²⁴ In the Kajo Keji area of Central Equatoria in Southern Sudan, The Carter Center observed instances of national intelligence officials looking through registration books and writing down the numbers of persons registered each day. In the Akobo area of Jonglei, Carter Center observers noted several incidents of SPLA and Southern Sudan Police Service involvement in the registration process. These included instances of security personnel opening the box of registration material, checking and recording the seals, accessing the materials, checking applicants' fingers for ink residue, and verifying applicants' eligibility. In Khartoum state, security officers on several occasions entered referendum centers without justification.

²⁵ The 26 out-of country observers are from 13 nations. Australia, Canada, Egypt, Ethiopia, Germany, Ireland, Kenya, Spain, Sweden, Switzerland, Uganda, UK and the USA.

²⁶ 33 Sherkole Camp (Asosa) in Ethiopia was not observed as most potential registrants had been processed by the time the team deployed from Addis Ababa. However, the camp was visited during the exhibition phase. The Carter Center also did not visit the eight centers that were established towards the end of the voter registration (Boston, Chicago, Dallas, Nashville, Seattle in the US and Brisbane and Perth in Australia). All other 37 centers were visited.

²⁷ Two buses reportedly ran daily for a period from Arua, Uganda into Southern Sudan to transport applicants to register in Southern Sudan.

Despite the low turnout, observers noticed that those who did register made considerable efforts to do so. Many applicants travelled long distances and sometimes in inclement wintry weather in order to participate in the process.

Unlike in Sudan, consideration committees were established in all of the OCV registration centers at the start of the process. In many cases, the committees were initially uncertain of their roles, had no written guidance or briefing, and seemed unclear about their status relative to the referendum center chair and staff. Carter Center observers saw no instances of significant disputes, and the decisions of consideration committees regarding eligibility were generally not challenged.

Local security arrangements were in place at all sites and any incidents within referendum centers were handled by referendum center staff. No significant security issues came to the attention of Carter Center observers except for two incidents in Uganda where referendum center staff reported being subject to serious threats.²⁸ The Carter Center strongly condemns any interference and intimidation, reminds all stakeholders of Sudan's obligations to ensure uninhibited participation in the process, and urges all sides to refrain from any such activities during polling.²⁹

The Carter Center observers have been welcomed in referendum centers by staff, IOM, visiting guests, and registrants alike. Some people who held reservations about the role of Khartoum in the data processing of the results indicated they felt reassured after seeing Carter Center observers.

The Carter Center OCV observers were formally accredited by the SSRC in a timely fashion. Domestic observers – often significant members of the local Sudanese community – were accredited locally in accordance with regulations. Those representing GOSS and political parties – notably SPLM – were issued with diplomat observer and domestic observer cards respectively, albeit with a clear indication of the institution to which they belonged.³⁰ As noted above, The Carter Center recommends that a distinction be made between domestic observers and political party representatives.

Exhibition. First reports on the exhibition period highlight varying turnout levels from zero attendance in Toronto, London, and Canberra to a turnout of low hundreds at centers in Uganda and Kenya. There has been no indication that buses transporting members of the Southern Sudanese community in Uganda to border towns in Southern Sudan are continuing to operate during the exhibition period. In many cases, registrants who have committed to long and expensive journeys to register and later, to vote, will not readily wish to add a third journey and are unlikely to attend exhibition.

²⁸ The referendum center Chair in Masindi was threatened at the start of registration and went into hiding at night. The Carter Center also received a copy of a letter evidently written by the SPLM Kampala chapter and dated 30 November that threatens dire consequences if referendum center staff continued to work at the Kyangwali referendum center.

²⁹ Interim National Constitution, Art. 23; Southern Sudan Referendum Act, Art. 7.

³⁰ On one occasion in Calgary, when an SPLM representative was campaigning inside the referendum center, he was reminded not to, and was required to sign a copy of the observer pledge by the chair of referendum center.

Abyei

The population of Abyei anxiously awaits progress toward a referendum or a negotiated solution that responds to the needs and anxieties of all of the area's inhabitants. Although some of the Abyei population may have met the eligibility criteria to participate in the Southern Sudan referendum by proving their links to indigenous communities of Southern Sudan, they were excluded from participation in the registration process due to a narrow reading by the SSRC of the CPA and the Sudan and Abyei Referendum Acts, which concluded that the people of Abyei were not eligible to participate in the Southern Sudan referendum because they are supposed to have their own referendum and therefore they could not participate in both processes.³¹ This interpretation prevented the SSRC from establishing referendum centers in Abyei. The Carter Center believes that some of the people of Abyei should have been eligible to participate in the Southern Sudan referendum and have been unfairly excluded from the process.

It is becoming increasingly unrealistic for the referendum in Abyei to take place simultaneously with the Southern Sudan referendum on self-determination scheduled for Jan. 9, as stipulated in the CPA.³² The failure of the NCP and SPLM to resolve the issues on Abyei is a matter of grave concern, especially since the uncertainty is contributing to increased insecurity in the territory, and threatens to negatively affect negotiations and resolution of key issues

The Center calls upon all stakeholders, including both the leaders of the Ngok Dinka and Misseirya, as well as the governments of Sudan and Southern Sudan to work together to reach agreement on key issues within the framework of the CPA, or through other means agreed to by all. While the Ngok Dinka and Misseirya need to be fully engaged in negotiations on these issues, it is critical that the genuine interests of the local populations are accurately represented

Conflict and Insecurity

Although Carter Center observers reported that the vast majority of Southern Sudanese were able to participate in the voter registration process freely and without fear for their security, Carter Center observers witnessed the aftermath of violent incidents that disrupted the voter registration process in two areas. While these incidents were not widespread, their severity is a cause for concern.

The Center is particularly concerned regarding the reported attacks of the Sudan Armed Forces (SAF) in Northern Bahr al Ghazal, given their potential to become flashpoints for larger, more disruptive conflict. The documented air bombardment on Nov. 24 in the Kiir Adem area by aircraft of the SAF resulted in destruction of houses and several casualties. The following day, Carter Center observers saw that a referendum center located close to the bombing was seriously affected, and registration staff and material had to be evacuated to Gok Machar. Such attacks and the loss of human life are

³¹ Southern Sudan Referendum Act, Art. 25.

³² CPA, Chapter IV, 1.3.

deplorable. The Center calls on the Government of Sudan to ensure no further attacks occur, as required by the Interim National Constitution and Sudan's commitments to guarantee security of the person.³³

The Center shares a widespread concern that such SAF actions along the North-South border not only threaten the security of civilians living in the area, but also could spark fighting between the SPLA and SAF. In addition, any military action at the border puts the security of civilians living in the area at risk.

Finally, Carter Center observers reported the closing of several referendum centers in the Akobo area of Jonglei, due to an incident amongst some of the sub-clans in the Deng Jok area and clashes between these sub-clans and the SPLA. Observers reported the temporary closing of a number of registration centers including: Weich Pout, Nuqda, Dilulah, Kier, and Thucwath.

South-South Dialogue

At the instigation of President of the Government of Southern Sudan Salva Kiir, a series of meetings are being held – the South-South Dialogue – to reconcile the various Southern parties and reach agreements on common approaches to the referendum and priorities for the post-referendum period. The Center urges the parties to continue such efforts and to ensure that the referendum goes forward in a peaceful atmosphere. In addition, The Carter Center urges the SPLM as the ruling party to ensure an inclusive planning process for the governance of Southern Sudan in the post-referendum period.

The second component to the South-South Dialogue is the reconciliation of the various armed groups in Southern Sudan. President Kiir initiated this process by pardoning the various rebel leaders and calling upon them to engage in a process to integrate them into the SPLA. The Center urges President Kiir, the SPLA chief of defense staff, and the leaders of the various armed groups to quickly reach agreements to assure the people of Southern Sudan that the referendum will be held under peaceful conditions.

Background on the Carter Center's mission

During November-December 2010, the Center deployed 30 medium-term observers to complement its contingent of 16 long-term observers to monitor and report on the voter registration process for the Southern Sudan referendum. In addition, core staff within Sudan observed voter registration in Khartoum, Juba, and two states in Darfur. For its observation in all eight out-of-country voting locations, the Center deployed a total of 26 observers.

In response to an invitation from the SSRC, The Carter Center initiated its referendum observation activities in Sudan in August 2010, subsequently deploying long-term observers in September. The Center assesses the referendum processes in Sudan based on the Comprehensive Peace Agreement, Interim National Constitution, Southern Sudan

³³Interim National Constitution, Art. 23(2)b; ICCPR, Art. 9.

Referendum Act, and Sudan's obligations for democratic elections contained in regional and international agreements, including the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.³⁴ In total, Carter Center core staff, long-term, medium term, and out-of-country observers form a diverse group from 28 countries.³⁵

The objectives of the Carter Center's observation mission in Sudan are to provide an impartial assessment of the overall quality of the referendum process, promote an inclusive process for all Southern Sudanese, and demonstrate international interest in Sudan's referendum process. The Carter 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.³⁶ The Center will release periodic public statements on referendum findings, available on its website: www.cartercenter.org.

³⁴ Sudan ratified the African Charter on Human and Peoples' Rights (ACHPR) Feb. 18, 1986. The ACHPR came into force on Oct. 21, 1986. Sudan acceded to the International Covenant on Civil and Political Rights (ICCPR) on March 18, 1986. The ICCPR came into force on March 23, 1976.

³⁵ These countries include: Australia, Cameroon, Canada, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, France, Germany, India, Iraq, Ireland, Italy, Kenya, Kosovo, Malawi, Malaysia, Netherlands, Norway, Senegal, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Uganda, United Kingdom, United States, and Zimbabwe.

³⁶ The Declaration of Principles in Arabic and English can be read at http://cartercenter.org/peace/democracy/des_declaration.html