



**Statement on the Recent Developments of the Popular Consultations
July 15, 2011**

The Carter Center calls for the National Assembly to approve a formal extension of the popular consultations in Blue Nile, as announced by President Bashir and stipulated in the Addis Ababa Framework Agreement, to allow for meaningful substantive hearings and ensure experts have sufficient time to prepare testimony. The extension should include clearly stated timelines to allow for an effective and meaningful process. The Center also calls for the political parties in Blue Nile to refrain from further politicization of the process and to reach an agreement on holding further hearings by the commission or in the Sudan Legislative Assembly for expert testimony and debate on the issues raised by citizens.

The popular consultations in Blue Nile and Southern Kordofan were included in the Comprehensive Peace Agreement (CPA) to allow citizens of the two states to discuss and inform the state governments as to whether the CPA has met their aspirations and for the state legislatures to renegotiate arrangements with the national government if necessary. Thus the consultations are an important instrument for returning stability to the two northern states, areas that were both greatly impacted by the civil war.

Approximately 73,000 citizens have participated in the 112 citizen hearings held across Blue Nile State since early January 2011. However, the hearings were highly politicized, as noted in the Carter Center's statement of March 21, with the main parties 'coaching' followers to call for either autonomy or federalism without discussion of the meaning of these concepts. Carter Center observers monitored the data entry of the views expressed during the hearings over the past several months.

The commission is commended for conducting the data entry process efficiently and without manipulation. However, the feedback received during the hearings was entered in a highly summarized fashion, further simplifying citizens' views and contributing to an impression that the hearings were essentially a vote on federalism or autonomy. Thus, an essentially qualitative process of soliciting viewpoints may be in danger of being reduced to a quantitative process, but without the normal safeguards or methodology that would be applied to a referendum or opinion poll.

On June 30, the Blue Nile Parliamentary Commission for popular consultations started writing its report, amid disagreement over whether to hold more substantive hearings and debates by the commission or in the Blue Nile State Legislative Assembly (SLA) to address the concerns and issues raised by citizens during the hearings. In Southern Kordofan, the popular consultation process has been delayed indefinitely due to the ongoing fighting. The Carter Center calls for popular consultations to be allowed to proceed in Southern Kordofan when conditions allow, so that the people are not denied their opportunity to state their opinions and participate in the CPA-mandated process. The process in Southern Kordofan can benefit from the achievements and lessons of the Blue Nile popular consultations and the

political parties should refrain from similar politicization of the hearings that prevents more meaningful discussion.

Background and Legal basis for the hearings

The CPA mandated popular consultations for Blue Nile and Southern Kordofan states were designed to provide a possible resolution to the ongoing conflict in the two northern states, both of which contain large populations that were affiliated with the Sudan People's Liberation Army (SPLA) during the long civil war.

Since elected state legislatures have the responsibility for assessing and evaluating the implementation of the CPA¹ in their respective state, the processes were postponed by over a year in Blue Nile state and by almost two years in Southern Kordofan, due to delays in holding state legislature elections. The Popular Consultation Act of 2010 clarifies additional aspects of the popular consultation process, including details for the establishment of parliamentary commissions tasked with organizing the popular consultations and assessing the results. The parliamentary commission established in Blue Nile State in September 2010 has 21 members, 13 from the National Congress Party (NCP) and eight from Sudan People's Liberation Movement (SPLM), reflecting the make-up of the state legislature.

Although the Popular Consultation Act provides no details on the process of consultation or how the hearings should be organized, it outlines the timeline for negotiations with the national government, should the state legislature find that the CPA arrangements have not met the aspirations of the citizens.² If the SLA decides that the CPA does not meet the aspirations of the people, the Act allows up to five months for negotiations with the national government through referring controversial issues to the Council of States and, if that fails, to arbitration. However, these negotiations were meant to be completed by the end of the interim period.³ Furthermore, following secession of the 10 southern states on July 9, the Council of States is a markedly different body, which could affect the shape of any potential negotiations.

Timeline for the Popular Consultations

The Addis Ababa Framework Agreement of May 28 between NCP and Sudan People's Liberation Movement North (SPLM-N) allows for an extension of the popular consultation timeframe, if ratified by the National Legislative Assembly.⁴ Moreover, President Bashir reiterated these sentiments in his July 12 speech before parliament, saying that his government would seek an extension to the process as defined in the Popular Consultation Act, "to allow the residents of the two states more time for broader dialogue to arrive at common understanding." The Carter Center commends the two parties for opening the door for this potential extension of the timeline and for recognizing the importance of having a meaningful popular consultations process in line with international commitments to allow citizens to take part in the conduct of public affairs of their country.⁵ Such an extension

¹ Article 3 of Chapter V of the CPA

² Article 15 of the Popular Consultation Act

³ Article 15 (k) of the Popular Consultation Act

⁴ Art. 5(c) of the recent agreement signed in Addis Ababa by NCP and SPLM-N says that "Without prejudice to the bilateral discussion between the two Parties on issues to be addressed through the process of popular consultation, the Popular Consultation process shall be extended beyond 9 July 2011 through an agreed amendment by the National Assembly".

⁵ UN International Covenant on Civil and Political Rights, art 25(a) and UN declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art 8(1)

would provide additional time for the Blue Nile Parliamentary Commission to finish its analysis of the data collected and to write a comprehensive report, and, if the CPA is deemed not to have met the aspirations of the constituents, for the SLA to prepare for and engage in negotiations with the Government of Sudan.

The Carter Center urges the National Assembly to approve an official extension as soon as possible, so that the process can continue beyond the CPA-stipulated interim period. The popular consultations should continue and citizens of these two areas should feel that their voices are heard if lasting stability is to be returned to these two areas. However, it is important that any extension is not open-ended. The National Assembly is urged to carefully consider an extended timeline with clearly stated deadlines for the popular consultations to ensure that the parties and commissions fully commit to completing the process and reaching agreement on contentious procedures. In Southern Kordofan, the popular consultation process will not be able to start until peace is re-established and the elected members take up their seats in the state legislature.

Citizen Hearings

The Blue Nile Parliamentary Commission for the Popular Consultations conducted a series of state-wide citizen hearings to ascertain views on the effectiveness of the CPA in bringing peace and sustained improvements to the state. Following two pilot citizen hearings in December 2010, the commission held 108 public hearings from January 14 to February 2, 2011, covering six geographical circuits around the state. The Carter Center observed 32 of these hearings, followed the work of the commission and issued a report of its findings on March 21. Eight planned hearings had been postponed due to threats and violence, including the death of a community leader in Abugarin, near Bau. The four delayed hearings in Kadalau constituency were held on April 15 and attended by Carter Center observers. The cancelled hearings in Bau have not been rescheduled.

Overall, the Center found the process well organized and commendably allowed citizens to express their opinions in an open public forum. Participation was extraordinarily high, with hundreds – sometimes well over one thousand – participants speaking at a single hearing. In total, around 73,000 residents of Blue Nile shared their views either verbally or in written form. The Kadalau hearings of April 15 were also well conducted and peaceful, with an attendance of over 2,500 citizens.

Unfortunately, the process was highly politicized by the two main parties who coached followers to call for either autonomy or federalism. There was little or no discussion of what these terms mean or what arrangement with the national government they might denote. This remained consistent during four rescheduled hearings in Kadalau as well, despite a two-month break since the first hearings were completed. This call for autonomy or federalism hindered true debate or garnering of opinion on the popular consultations' four general themes.⁶ Moreover, discussion on security, which potentially affects citizens' lives most closely, was at times discouraged.

Data Entry and Analysis

All hearings were recorded and notes were taken by designated note takers. On April 9, 2011, the commission began to electronically compile the information for analysis and use in the commission's report on the process. The forty data clerks selected by the commission were

⁶ Constitutional, political, administrative, and economic issues, as identified in Article 3 of the Popular Consultations Act.

from NCP and SPLM in equal numbers, in an effort to prevent manipulation of data entry. The clerks first entered the personal “biodata” for each participant, which was a time-consuming process, apparently due to technical challenges such as electricity cuts and software malfunctions, and was completed in May.

Although political party agents and Carter Center observers were allowed to monitor the data entry process, observers were restricted to ten minutes at a time in the computer room due to limited space in the data center. This affected the overall transparency of the process. However, observers did not witness any attempts to manipulate the data and noted that data entry was completed in an efficient and accurate manner with complete cooperation between NCP and SPLM-N team members. The Carter Center recognizes the dedicated work of the Commission to ensure an environment free of manipulation.

In an effort to accelerate the entry of views expressed by participants during the hearings, the commission established twelve committees, each consisting of an NCP and SPLM commissioner as well as a secretariat staff member to review the two sets of official notes from each participant's speech. In cases of disagreement or a lack of clarity, the committee listened to the original cassette recording of the hearings. Although this accelerated the process, details of citizens' contributions were lost. An exception to this were the Kurmuk and Bau circuits, where data entry was done from the original audio tapes due to the fact that only one set of notes was taken during the hearings.

While the bipartisan nature of the data entry is commended, the quantification of citizens' views is troubling. Important discussions of administrative and economic themes, such as land issues or health provisions, were reduced to how often the issue was mentioned rather than contextualizing the citizens' concerns. Moreover, the number of people mentioning an issue does not necessarily reflect the issue's impact. The condensed data may not provide the necessary detail for the SLA to assess the overall message from the public hearings. For instance, much of the data entry has revolved around assessing how many people spoke for autonomy or federalism. These concepts were vaguely defined in the hearings themselves and overlapping in meaning and scope. A simple count of how many people spoke for one or another system of government will not add meaning to a discussion on the relationship of the state with the national government.

Report Writing

The commission established a report-writing committee, which officially started work on June 30, analyzing and drawing together the results of the data from the citizen hearings. This work is ongoing, and the content of the commission's report remains uncertain. However, the Carter Center encourages the commission in its efforts to build the report on substantial impressions from the citizen hearings, careful analysis of the data, and from any potential future hearings, rather than the number of times citizens spoke about or in favor of a particular issue. The results of the public hearings should not be used in the same manner as an opinion poll or referendum, as the research was neither based on a representative sample nor a vote by secret ballot. This approach could distort the commission's overall findings. Instead the commission should try to identify the main issues of consensus between citizens related to CPA implementation.

Further Hearings

The original plan envisaged for the popular consultations was to hold further hearings to seek the input of local experts and civil society on the views that surfaced during the citizen hearings. They would provide a floor for discussion of these views in order to develop and

qualify them for use in the commission's report. As such, they could return some of the substance that has been removed by the politicization of the hearings themselves and the summarization that occurred during the data entry process. These have been referred to at different times as 'elite' hearings or 'thematic' hearings. However, opposition parties have opposed holding of such hearings on the ground that only citizens' views should be taken into account. The parties may not have considered that greater examination of the citizens' views by informed experts could deepen the final reports of the commission and of the SLA. The SPLM has also raised concerns about potential bias of experts invited to 'thematic' or 'elite' hearings. These disagreements led to delays beyond the July 9, 2011 deadline and may prevent further hearings from occurring.

Neither of these objections truly considers how similar the views of stakeholders are on all of the main issues discussed. The Carter Center encourages all political parties to commit to holding some form of public or parliamentary hearings with a wide variety of stakeholders and experts to ensure more substantive discussion of the themes emerging from the citizen hearings and debate key issues. Sufficient time needs to be allocated to these hearings in order to allow to experts to prepare arguments, for wide stakeholder contributions and to avoid deterioration into the autonomy versus federalism 'vote' of the citizen hearings. An extension to the popular consultation timeline could provide a new opportunity for the conduct of further hearings of a more substantive nature.

Southern Kordofan

Although state legislative elections were held in Southern Kordofan on May 2-4, 2011, the SPLM has contested the results and refused to take its seats in the state assembly. The Southern Kordofan state assembly consequently does not have quorum and cannot form a popular consultation commission. More importantly, fighting is still ongoing in the state. The recent Addis Ababa Framework Agreement has not been implemented and the conflict in the state remains unresolved. The humanitarian needs of the population, many of whom have been displaced by the fighting, will need to be addressed before any political process can take place.

The Carter Center calls for both sides to commit to a cease-fire and to implement the Framework Agreement in Southern Kordofan. The Center also urges the government to postpone the popular consultation process until peace is restored, people have returned to their homes and are able to participate fully in the process. The consultations, as denoted by the CPA, are an important opportunity for the people of the state to have their voices heard and to make strides towards ending the conflict and bringing about a lasting peace in the state.

Background on the Carter Center Mission

The Carter Center's Democracy Program has been present in Sudan since February 2008. The mission observed the April 2010 general and presidential elections, the Southern Sudan referendum of January 2011, and the Southern Kordofan Legislative and Gubernatorial elections in May 2011. The Center was invited by the Blue Nile Popular Consultation commission to observe the process in the state and has deployed long-term observers in Blue Nile since October 2010 and maintained a team of analysts in Khartoum. This statement documents the data entry and report writing processes as well as the rescheduled hearings in Kadalu and Bau constituencies. The Center released a report on March 21 covering the January to February citizen hearings. Read the Center's full report at www.cartercenter.org.

The Center's observation mission is conducted in accordance with the Declaration of

Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 35 election observation groups. The Center assesses the process against the CPA, the Popular Consultation Act of 2010 and other international legal instruments to which Sudan has acceded.

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