



## Sudan Law Reform Update

April 2010

Welcome to the seventh issue of the Sudan law reform update. The Project for Criminal Law Reform in Sudan (PCLRS), a joint initiative of SORD and REDRESS, provide this regular service with a view to informing those working on, and interested in, law reform and human rights of relevant developments. The update includes a summary of the news (largely based on English language media sources) on law reform, jurisprudence and other developments. It also aims to serve as a platform for sharing of information, comments and opinions on any issues related to law reform and human rights in Sudan. This issue focuses on the recent elections and covers developments up to 28 April 2010.

Yours,

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For further information, please visit our website at [www.pclrs.org](http://www.pclrs.org). Please contact us (Khansa Elkarib (SORD) at [sord2lawreform@gmail.com](mailto:sord2lawreform@gmail.com) Tel. +249 83230059 or Lutz Oette (REDRESS) at [lutz@redress.org](mailto:lutz@redress.org) Tel +44 20 7793177) if you wish to share information or submit your comments for consideration, or if you do not wish to receive any further issues of the update.

## I. PCLRS NEWS

We are pleased to inform you that the full Arabic version of the PCLRS website is now available at [http://www.pclrs.org/index\\_a.htm](http://www.pclrs.org/index_a.htm)

## II. COMMENT

### **Elections, the Rule of Law and the prospect for law reform in Sudan**

This month's elections in Sudan were meant to constitute one of the pivotal moments in the process of democratic transformation envisaged in the Comprehensive Peace Agreement (CPA). Instead, the election process vindicated a series of concerns about the weakness of the rule of law and democratic structures in Sudan. This weakness goes beyond the flaws of, and violations committed during the voting process. The current legislative and institutional framework significantly hampers the exercise of political and civil rights. Provisions in the Sudanese criminal acts and press law unduly restrict freedom of expression, assembly and association. There is no effective judicial protection against violations of rights. The recently enacted National Security Act essentially maintains the unfettered powers of the security services- the very same services that were alleged to have been responsible for suppressing the free exercise of political rights in the run-up to, and during the elections.

The elections constitute a missed opportunity. International actors failed to heed the calls made by Sudanese civil society and others to make essential reforms a prerequisite for legitimate elections. Regrettably, the concerns raised about a narrow approach to elections have now become a reality. In October 2009, the Redress Trust wrote in its evidence submitted to the UK Associate Parliamentary Group on Sudan - Parliamentary Hearings: Sudan's Comprehensive Peace Agreement (available at <http://www.pclrs.org/Miscellaneous/REDRESS%20Submission%20CPA%2015%20October%202009.pdf>):

“Some international actors have focused largely on capacity building and technical assistance to allow the elections to proceed as part of the broader CPA process. While important, this approach may result in a rather narrow conception of elections as a one-time event. It raises the prospect that elections become a formal and technical exercise. The shift in language, according to which elections should be ‘credible,’ seemingly lowers the requirements that need to be in place if compared to free and fair elections. This may in turn result in flawed elections that command limited legitimacy. In contrast, other actors have highlighted the need to ‘strengthen the democratic process.’ This includes legislative reforms to enhance human rights protection, which are a crucial component of promoting the rule of law and governance (footnotes omitted).”

It went on to recommend that:

“Continuing financial support and acceptance of the results of elections should be contingent upon prior reforms of legislation and adherence to human rights standards in practice within a realistic timeframe. Such a policy may result in further delays to

elections as it would require the Government of Sudan to undertake the necessary reforms. However, such a delay would be preferable to the alternative outcome, namely elections that do not command legitimacy in Sudan.”

International observers (AU, EU, IGAD, Carter Centre) and states (Troika statement of 19 April 2010, Norway, UK and US) acknowledged some flaws in the legal framework and voting but stressed the importance of elections as part of the democratic process and CPA implementation. However, it is these very flaws that are set to undermine the prospect for a lasting change in the political culture, including respect for the rule of law. The concerns expressed by Sudanese civil society are well-founded. The formal implementation of the CPA, including the holding of elections as a precursor to the 2011 referendum, appears to be the priority for most international actors even if it comes at the expense of genuine reforms and a free and fair democratic process.

It is worth recalling the ultimate objective of the CPA, i.e. to foster a country and society that values democratic processes and guarantees human rights, and, by so doing, secures a lasting peace. Flawed elections will not open up democratic space in the absence of a broader framework conducive to the exercise of civil and political rights and the enjoyment of economic, social and cultural rights. Developments in Sudan demonstrate that elections are double-edged swords. They may raise false hopes in relation to a single event, which is but a part of a long-term process to make more fundamental changes a reality. The nature of the election process and the seemingly inexorable momentum towards the 2011 referendum on the independence of Southern Sudan have narrowed the scope for the CPA to act as a vehicle for change. However, the strong mobilization of civil society and its engagement for the democratic cause and the rule of law may provide the silver lining for efforts in which people’s concerns are expressed, heard and addressed. This would indeed constitute a significant and lasting success of the election process. To this end, the limited democratic space that has opened up, including the exercise of freedom of expression and other rights, needs to be sustained to realise the spirit of the CPA beyond the CPA.

### **III. DOCUMENTATION ON ELECTIONS**

1. Statements from the various election observer missions are available at <http://www.sudanvotes.com/pages/resources.php>.
2. Reports on the election process are available at <http://sudanvotemonitor.com>; <http://www.sudandecides.com/> and <http://www.acjps.org>.
3. The Position of the Independent Civil Society Network on the Electoral Process is available at [http://www.sudaneseonline.com/en216/publish/Latest\\_News\\_1/The\\_Position\\_of\\_the\\_Independent\\_Civil\\_Society\\_Network\\_on\\_the\\_Electoral\\_Process\\_printer.shtml](http://www.sudaneseonline.com/en216/publish/Latest_News_1/The_Position_of_the_Independent_Civil_Society_Network_on_the_Electoral_Process_printer.shtml)
4. Press statement by Women Oppression coalition on Bashir’s statements during the election campaign to retain the Public Order Regime, available at <http://www.sudantribune.com/spip.php?article34804>