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AFRICAN UNION OBSERVER MISSION TO THE 2010 SUDAN GENERAL ELECTIONS

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**FINAL**

**REPORT**

**OF THE AFRICAN UNION OBSERVER**

**MISSION TO THE 2010 SUDAN GENERAL ELECTIONS**

**11-15 APRIL 2010**

## I. INTRODUCTION

1. At the invitation of the National Elections Commission of Sudan (NEC), the Chairperson of the African Union Commission (AUC), H.E. Dr. Jean Ping, sent an Observer Mission to observe the General Elections organized in the Republic of Sudan from 11 to 15 April 2010.

2. The invitation was also accepted in consideration of the principles and objectives of the African Union (AU) enshrined in the Constitutive Act of the Union, particularly in its Articles 3 and 4, decisions of the AU and other instruments of the Union, which include:

- The Algiers Decision of July 1999 and the Lomé Declaration of July 2000, on the Framework for an OAU Response to Unconstitutional Changes of Government, which laid down a set of common values and principles for democratic governance;
- The Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) Solemn Declaration of Lomé, adopted in July 2000, which underpins the OAU's Agenda for promoting democracy and democratic institutions in Africa;
- The African Charter on Human and Peoples' Rights, adopted in June 1981 which *inter alia* recognized the right of every citizen to participate freely in the governance of his/her country whether directly or through democratically elected representatives;
- The African Charter for Popular Participation in Development, adopted in July 1990, which emphasized the need to involve the people of Africa in all spheres of economic and political governance.

3. The AU Observer Mission to the 2010 General Elections in Sudan was guided by the foregoing continental instruments and precepts, as well as by the Declaration on the Principles governing Democratic Elections in Africa.

4. Cognisant, therefore, of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the Union and the universally accepted principles of democracy. The African Union has continued to play an ever-growing role in the observation and monitoring of elections in the Continent.

## II. TERMS OF REFERENCE

5. The objective of the observer mission was to ascertain the fairness and transparency of the elections and the freedom of choice of the electorate.

6. The Team was also guided by the following principles:

- a) Ascertaining the level of awareness of the people of Sudan with regard to the electoral process and the level of participation;

- b) Observing and verifying the impartiality and legality of decisions taken by the National Elections Commission (NEC) of Sudan and its officials;
- c) Observing and verifying the voting process as provided for by the Constitution and relevant election-related laws and regulations of the Republic of Sudan such as:
  - Opening of the polling stations,
  - Voting materials – stipulated quantities, timeliness of delivery/ processing,
  - The prevailing atmosphere and its conduciveness
  - Efficiency of the polling officials,
  - Casting of the votes,
  - Counting/tallying/verification of the votes,
  - Transmission and declaration of the results.

7. The Mission was also guided by the AU Guidelines for Elections Observation and Monitoring Missions (2002). Observers were obliged:

- To respect and abide by the Constitution and laws of the Republic of Sudan;
- To exercise their role with impartiality, independence and objectivity;
- Not to allow their personal opinions, likes and dislikes to influence their work;
- Not to directly or indirectly propagate or identify themselves with any candidate or party;
- Not to display or wear any partisan symbols, colours or banners;
- To carry identification prescribed by the National Elections Commission at all times and identify themselves to any authority upon request;
- Not to accept any gifts or favours, or promise of gift or favour that might influence them in their official work;
- To refrain from interfering by action, comment or otherwise and in bad faith with the polling exercise and/or the duties of the elections officials, but to cooperate with them;
- To note and report any irregularities observed in the elections process to the NEC or to competent officials of the Commission, who will examine the activities reported as irregular and take corrective measures, as appropriate.

The observers were to:

- request for and obtain information on activities related to registration of voters and the polling;
  - submit to the Commission, in writing, complaints and appeals about irregularities in the electoral processes;
  - gain access to the Polling Stations, Counting/Results Centres and to occupy the nearest seats or positions to the polling officials so as to be able to observe all the operations relating to the casting of the votes and/or voting process;
  - inspect and verify the ballot boxes and any other item(s) or materials to be used in the polling exercise, before the casting of the votes.
8. The African Union Observer Team, led by H.E. Mr. John Agyekum Kufuor, former President of the Republic of Ghana and comprised the following personalities:

<b>No.</b>	<b>NAME</b>	<b>COUNTRY</b>
1.	H.E John Kufour	Ghana
2.	Mr Frank Agyekum	Ghana
3.	Mr Anthony Omame	Ghana
4.	Mr. Nour Edine Idriss	Algeria
5.	Mr. Victor Tonchi	Botswana
6.	Mr. Leonard Lenna Sesa	Botswana
7.	Mr. Thomas Ejake Mbonda	Cameroon
8.	Mr. Negousse Desta	Ethiopia
9.	Mr. Kemal Bedri Kelo	Ethiopia
10.	Ms. Saba Gebremedhin	Ethiopia
11.	Mr. Alhajie Mustapha Carayol	Gambia
12.	Hon. Mr. Adjaho Edward Korbly Doe	Ghana
13.	Gen. Francis Asiedu Agyemfra	Ghana
14.	Mr. Frank Agyekum	Ghana
15.	Ms Roselida Khamete	Kenya
16.	Mrs. Mildred Owuor	Kenya
17.	Mrs Limakatso Mokhutu	Lesotho
18.	Hon. Sumo Joyce Musu	Liberia
19.	Mr. Ansumana Kromah	Liberia
20..	Mr. Abdulhamed A. Aboghnaia	Libya
21.	Hon. Mrs. Jenifer Chilunga	Malawi
22.	Mrs. Nkovole Thandie	Malawi
23.	Mr. Emmanuel Nandolo	Malawi
24.	Mr. Ron Nkomba	Malawi
25.	Hon. Gurirab Tsudao Immanuel	Namibia
26.	Amb. Kunle Adeyemi	Nigeria

27.	Mrs. Babatunde-Kareem Agnes	Nigeria
28.	Dr. Abubakar Momoh	Nigeria
29.	Amb. Bala Sani	Nigeria
30.	Hon. Sesay Moses	Sierra Leone
31.	Mrs. Hannah Kawaley	Sierra Leone
32.	Mr. Edward Nyaley	Sierra Leone
33.	Mr. Amon E. Challigha	Tanzania
34.	Prof. Severine Rugumamu	Tanzania
35.	Mr. Tony Mbilinyi	Tanzania
36.	Mrs. Jenny Okello	Uganda
37.	Mr. Mbho Shongwe	Swaziland
<b>COMESA</b>		
38.	Mr. Salvator Matata	Burundi
<b>Ambassadors accredited to the AU</b>		
39.	Amb. Andrew G. Bangali	Sierra Leone
40.	Amb. Lungile Christian Pepani	South Africa
41.	Amb. Albert M. Muchanga	Zambia

A Secretariat was set-up comprising:

- 42. Ms. Shumbana Karume, Coordinator
- 43. Ms. Mabo Yaye Sene, Media Officer
- 44. Mr. Abjulmajid Enajeh, AUC Chairperson Officer
- 45. Mr. Yayerhad Kassa, Finance Officer
- 46. Mr. Thomas Mhanga, Finance Officer
- 47. Mrs. Ena Agbokou, Secretary and,
- 48. Mr. Dieudonne Tshiyoyo, seconded by the Electoral Institute of Southern Africa (EISA), to assist the AU Observer Mission Coordination Team.

#### **South African Government Nominated Team**

49.	Mr Gabriel Setlhoke	
50.	Ms Amy Baard	
51.	Ms Nichola Sabelo	
52.	Mr Stanley Montsho	
53.	Ms Janice Stratchan	
54.	Mr Thivhionali Thathi	
55.	Mr Izak Bisschoff	

56.	Ms Monia Ndlovu	
57.	Ms Anita van der Westhuyzen	
58.	Mr Zolile Sagela	
59.	Ms Matlhodi Jebetle	
60.	Ms Lora Kganyago	
61.	Ms Lerato Scherpenhyzen	
62.	Ms Conti Matlakala	

### **Nigerian Government Nominated Team**

63.	Ambassador Uhomoibhi	
64.	Ambassador J.J Ayorinde	
65.	Mr A M Ahmed	
66.	Ambassador S. Dahiru	
67.	Mr F. Omosuyi	
68.	Mr I Olatidoyo	
69.	Mr Omar Kamfut,	
70.	Ambassador M K Ibrahim	
71.	Mr Timioh B Nkhem	
72.	Mr Abdullahi Consular of Nigerian Embassy	
73.	Mr F T Folahun	

9. The Coordination Team arrived in Khartoum on 03 April 2010, in order to prepare and facilitate the work of the Observer Mission, while the observer team including the Team Leader arrived in the country on 04 April 2010. The team was billed to be in Sudan on 03 April to 18 April, however due to the two days extension in polling announced by NEC, the Team remained in Sudan till 20 April 2010.

10. African Union Member states also dispatched delegations to operate as part of the African Union election observer mission to the Sudan in line with the Communiqué of the 219<sup>th</sup> meeting of the African Union Peace and Security Council meeting held on 10 March 2010.

### III. COUNTRY PROFILE

#### a) Historical Background

11. The Republic of the Sudan, a former British colony, declared independence in 1956. The triple conflicts – the South, Darfur and the East – and the almost constant ethnic and rebel militia fighting since the mid-20th century have had a destabilizing effect not only on the Sudanese state itself, but also on the whole of the Central and East African region.

12. Based on the 2005 peace agreement between the Government and southern-based fighters, the Interim National Constitution came into effect. It provides for a federal state with 25 regions, a Government of National Unity and a referendum for independence for southern Sudan to be held in early 2011. The current Government is led by President Omar Al-Bashir, who has been in power since a military coup in 1989.

13. ***Pre-independence (until 1956):*** From 2000 B.C. until the early 19th century A.D. various kingdoms, that is, the Kingdom of Kush, the Sultanate of Darfur and the Funj Sultanate of Sennar, ruled the area. Christianization began as early as the 6th century followed by Islamization between the 14th and 16th century. In 1819 Egypt conquered northern Sudan in order to establish a colonial system of oppression based on heavy taxes and an attempt to introduce slavery. From 1881 to 1899 the colonized Sudanese fought an anti-colonial war led by Muhammad Ahmad – the Mahdi – against the Egyptian occupier. During the war, which became known as one of the most successful anti-colonial struggles, the Mahdi established the freed Sultanate of Omdurman. Yet, the Sultanate was short-lived as it succumbed to a joint Anglo-Egyptian-attack in 1898. The British and Egyptians thereafter established a condominium, i.e. a political entity shared by two or more sovereign powers, with the northern part of Sudan under Egyptian control (indirect British rule) and the southern part administered by the United Kingdom. The separate administration of northern and southern Sudan and a law prohibiting ordinary people to cross from one part to the other further widened the already existing north-south divide.

14. ***Independence and north vs. south warfare (1956-2005):*** At independence in 1956 the British transferred authority to Muslim elites in the north. The ‘First Sudanese Civil War’ that had broken out in 1955 between southern-based fighter groups and the Khartoum-government lasted until 1972. With the signing of the Addis Ababa peace agreement in 1972, which had allowed the South to become a self-governing region, a decade of relative peace began. In the early 1980s secessionist claims became increasingly vibrant after oil was found in the southern-Sudanese province Upper Nile and the Northern Government lifted the autonomy of the South in order to impose Sharia law. In response, the Sudan People’s Liberation Movement/Army (SPLM/A) under John

Garang was formed and began a violent struggle against the national government lasting from 1983 up to 2005.

15. In 1989 Colonel Omar Al-Bashir seized power through a military coup. From 1989 to 1993 Al-Bashir led a military government followed by a civilian government in a de-facto one-party state, with the National Congress Party (NCP), from 1993-1999. The 2000 elections that confirmed Al-Bashir in office initiated a period of highly restricted democratic practice.

## **b) Brief Recent History**

16. ***Peace agreement and its implementation (2005-today)***: Sudan's longest civil war between the north and the south formally ended in January 2005 with the signing of the Comprehensive Peace Agreement (CPA) between the Khartoum-based government of Sudan, represented by the NCP, and the SPLM, a former southern rebel group.

17. The CPA provides for a six-year interim period, in which the SPLM is incorporated into a Government of National Unity (GNU), and paves the way for a southern referendum on independence to be held in early 2011. The holding of free and fair elections – Sudan's first democratic elections since 1986 – is a key provision in the Protocol on Power-Sharing of the CPA. Initially, the elections were scheduled to be held in July 2008, but were adjourned several times and have now taken place from 11 to 15 April 2010.

18. Moreover, the CPA granted regional autonomy to the southern provinces and provided for an equal sharing of the oil revenues between Khartoum and the Southern Government in Juba.

19. The United Nations supports the peace process with about 10, 000 peacekeepers through the United Nations Mission in Sudan (UNMIS) tasked to facilitate and monitor the implementation of the CPA.

## **c) Conflicts and humanitarian crises in Sudan**

20. ***Darfur***: The fighting which broke out some years earlier, between Dafurian fighter groups and Sudanese government, escalated in 2003. These groups included the Justice and Equality Movement (JEM) that accused the government of political, social and economic marginalization. The government deployed militias called Janjaweed in Darfur in order to strike down the rebellion. In spite of many mediation attempts, signed peace agreements and even the deployment of international peacekeepers by the African Union and the United Nations, fighting between the numerous factions is ongoing.

21. ***Conflict in eastern Sudan***: The eastern regions of Red Sea, Kassala and Gedaref have contested the rule of Khartoum since independence. The regions, which are rich in resources (gold and diamonds) and hold the economically important Port of Sudan, strive for autonomy and a higher share of revenues. In 2006 the Eastern Front, an association of eastern Sudanese fighter groups, and the Sudanese government signed the Eastern Sudan Peace Agreement.

22. **Conflict in Abyei:** The oil-rich region of Abyei lies on the contested borders of northern and the southern Sudan. Abyei's population is divided into the Misseriya, who tend to ally with the Khartoum-government, and the southern-oriented Ngok Dinka. Local issues, in particular unsolved questions of land ownership, further complicate the conflict situation. According to the CPA the population of Abyei is supposed to decide whether it belongs to the north or south in a 2011 public referendum.

#### d) Geography

23. The Republic of the Sudan (*Jumhuriyat as-Sudan*) is Africa's largest and the world's tenth largest country. With a size of 2.5 million square kilometres Sudan borders Egypt, Libya, Chad, the Central African Republic, the Democratic Republic of Congo, Uganda, Kenya, Ethiopia and Eritrea; and the Red sea. Khartoum is the capital city of the country.

24. Sudan's climate is tropical in the south with extensive annual rainfall between April and October, while a wide arid desert covers most of the north and west of the country with sandstorms and a short rainy season lasting for only about two months per year. Arable land, which is mostly in the south and along the river Nile, constitutes a mere 6.8% of the landmass with permanent crops amounting to only 0.2% of the vast country. Soil erosion, desertification and periodic droughts further hamper Sudan's agriculture. The terrain is generally flat and featureless plain with mountains in the far south, north and west. Natural resources include most importantly crude oil, but also small reserves of iron ore, copper, chromium ore, zinc, tungsten, diamonds, silver and gold.

25. Sudan's rapidly growing population (population growth rate: 2.1%) was estimated at 41.1 million in 2009, during the last census. About 43% of the population lives in urban areas among which the capital Khartoum accounts for approximately 8 million inhabitants. The multi-ethnic society composed of more than 550 ethnic groups can be roughly subdivided into two major groups: A mostly Muslim-Arab population in the north and the predominantly Animist Nilote and Christian African population in the south.

26. The Arab-Islamic population of the north makes up 39% of the country's population, Nubians also living in the north 8%, nomads and semi-nomads of many different ethnic groups including Baggara, Fur and Zaghawa in the western region (Darfur) 20%, and Nilotes as well as Christians of various ethnic groups such as Dinka, Nuer, and Shilluk in the south 30%.

27. While Arabic is the mother tongue and *lingua franca* for around 70% of the population, more than 140 different languages as well as English are spoken in the southern and western parts of the country.

#### e) Economy

28. Sudan is a lower middle income country, with a total GDP of US\$ 58 billion in 2008 and an annual per capita GDP of US\$ 2200. Recently, the country experienced an economic boom with annual growth rates of more than 10% in 2006 and 2007; followed by 6.6% in 2008.

29. Since 1999 Sudan is exporting crude oil, but ranks only as the 40<sup>th</sup> largest oil exporting country in the world. Of the 6.3 billion barrels proven reserves, 75% are located in Southern Sudan. While the GDP is composed of about one third of agriculture, industry and services each, agriculture accounts for 80% of the labour force; industry and services make up 7% and 13% respectively. By a 2004 estimate 40% of the population lived below the international poverty line of US\$ 1.25 a day.

30. In the 2009 Human Development Index, Sudan ranks 150<sup>th</sup> out of 182 countries. Besides oil and petroleum products, the country also exports cotton, sesame, livestock, groundnuts, gum arabic and sugar. More than 90% of the Sudanese exports are delivered to Asian countries, most importantly China and Japan.

31. The socio-economic disparity between the capital Khartoum and the periphery is striking: While the wealthy Khartoum constitutes the centre of economic affairs, the peripheral regions rank among the world's least developed areas.

#### **f) Administrative sub-divisions**

32. The Republic of The Sudan is decentralized and composed of 25 states – 15 in the north and 10 in the South. From 1983 to 1997, the country was divided into five regions in the north and three in the south, each headed by a military governor. After the 1989 military coup, regional assemblies were suspended, with the Revolutionary Command Council for National Salvation abolished in 1993 and the ruling National Islamic Front (NIF) forming the National Congress Party (NCP).

33. In 1997, the structure of regional administration was replaced by the creation of twenty-six states. The executives, cabinets, and senior-level state officials are appointed by the President, and their limited budgets are determined by and dispensed from Khartoum. The states, as a result, the state remained economically dependent upon the central government. Khartoum state, comprising the capital and outlying districts, is administered by a governor.

The following are the States of Sudan:

A'ali an Nil, Al Bahr al Ahmar, Al Buhayrat, Al Jazirah, Al Khartoum, Al Qadarif, Al Wahdah, An Nil al Abyad, An Nil al Azraq, Ash Shamaliyah, Bahr al Jabal, Gharb al Istiwa'iyah, Gharb Bahr al Ghazal, Gharb Darfur, Gharb Kurdufan, Janub Darfur, Janub Kurdufan, Junqali, Kassala, Nahr an Nil, Shamal Bahr al Ghazal, Shamal Darfur, Shamal Kurdufan, Sharq al Istiwa'iyah, Sinnar, and Warab.

#### **IV. POLITICAL SYSTEM**

a) **Constitutional and legal framework**

34. Politics in Sudan takes place within the framework of a presidential representative system, where the President of Sudan is Head of State, Head of Government and Commander-in-Chief of the Sudanese Armed Forces in a multi-party system.

35. Based on the 2005 Comprehensive Peace Agreement, the National Interim Constitution passed in 2005 states that Sudan is an “independent, sovereign, democratic, decentralized, multi-cultural, multi-lingual, multi-racial, multi-ethnic, and multi-religious country”. According to the Interim Constitution, The Sudanese people have civil and political rights including personal liberties, equality before the law, freedom of expression and media, freedom of assembly and association and the right to vote. The holding of free and fair elections is a key provision of the Comprehensive Peace Agreement. Both the CPA and the Interim National Constitution confirm the right to vote as a fundamental right of Sudanese citizens.

36. Ethnic and cultural communities enjoy the right to “develop their particular cultures ... practice their beliefs, use their languages, observe their religions and raise their children within the framework of their respective cultures and customs”.

37. **Executive branch:** The Presidency of the Republic comprises the President of the Republic and two Vice Presidents. The President, who is directly elected by the people, appoints the two Vice Presidents: one from Southern Sudan, the other from Northern Sudan. If the elected President is from the North, the position of First Vice President is dedicated to a candidate from the South and vice versa. For the interim period, it was agreed that President Al-Bashir remains in office, until the conduct of presidential elections, while the post of the First Vice President would be held by the Chairman of the SPLM, Salva Kiir, who also presides over the Government of Southern Sudan. On 19 September 2009 Salva Kiir resigned from the office of First Vice President and no successor has been appointed to replace him.

38. The President and the two Vice Presidents are members of the National Council of Ministers, tasked among others, with the planning of state policy, the implementation of the CPA and the initiation of national legislative bills and the national budget. During the interim period the President of the Republic and the First Vice President formed a Government of National Unity.

39. **Legislative branch:** According to the 2005 constitution, legislative powers are vested in both the government and in a bicameral Parliament, which encompasses two chambers, the National Assembly (*Majlis Watani*), whose 450 members are to be directly elected by the people, and the Council of States (*Majlis Welayat*), whose 50 members are indirectly elected by state legislatures. All members of Parliament serve a five-year term.

40. **The Judiciary:** The national judiciary comprises the National Supreme Court, National Courts of Appeal and other national courts. Constitutionally, the

judiciary is independent from both the legislature and the executive branches of the government. An independent Human Rights Commission monitors the respect of human rights, documents violations and advises state organs.

41. The National Elections Act, passed in July 2008, provides the basic legal framework for conducting elections in the Sudan, in southern Sudan, and in each state. Executive and legislative elections are held at three levels, as follows:

	<b>Federal Level</b>	<b>Southern Sudan</b>	<b>State Level</b>
<b>Executive Elections</b>	President of the Republic of Sudan	President of the Government of Southern Sudan	State Governors
<b>Legislative Elections</b>	National Assembly	Southern Sudan Legislative Assembly	State Assemblies

42. The National Elections Act 2008 enfranchises all Sudanese citizens over the age of 18. Candidates for the presidency must be over the age of 40, have no criminal record and get a total 15, 000 endorsements from registered voters with at least 200 endorsements within 18 of Sudan's 25 states.

43. The law provides for:

- all citizens, without discrimination, to exercise their political rights to nominate and to freely express their will by secret ballot at periodic elections or referendum;
- a voter registration exercise in which voters establish their eligibility to vote and have their names included on the electoral register;
- a display of the provisional voters' list to allow for revision of voters' details and objections to names on the list;
- publication of the final voters' list;
- a campaign period for candidates and parties;
- basic polling procedures for the conduct of the poll and
- observation of elections and right of party agents to be present during polling

44. The elections are conducted and supervised by the National Elections Commission.

#### **b) The NEC**

45. The NEC is tasked by the 2008 National Elections Act with regulating, supervising and conducting the legislative and presidential elections as well as referenda. This includes, among other matters, the determination of geographical constituencies, preparation and approval of the electoral register, control over the count of the ballot cards and the declaration of the final results. The law states, however, that the NEC is not responsible for the organization of the CPA-mandated referendums in Southern Sudan or Abyei. A Southern Sudan

Referendum Commission has responsibility for organizing the Southern Sudan referendum, while another specially-appointed commission will conduct the Abyei referendum.

46. The NEC is financially, administratively, and technically independent, and must perform its functions and duties independently, impartially and transparently without interference from any other State body in its affairs, business or functions, or any limitation of its powers. The decisions of the Commission are taken by majority vote of the members present. If there is a tie vote, the Chairperson can break the tie as long as at least half the members are present. The Commission is expected to have an independent budget to be prepared according to the relevant principles observed by the State and be subject to regular audit.

47. The NEC is composed of nine members, called Commissioners, who are selected and appointed by the President of the Republic with the consent of the First Vice-President and the approval of two thirds of the members of the National Assembly. The Chairperson and the Deputy Chairperson of the Commission are appointed by the President of the Republic with the consent of the First Vice President, from among the members of the Commission. Tenure of Commissioners is six years; the President of the Republic can request Commissioners to serve for an additional six-year term.

48. The NEC was established in November 2008 in compliance of the National Elections Act of 2008. The NEC Commissioners include:

- H.E. Mawlana Abel Alier (Chairman)
- Professor Abdala Ahmed Abdalla (Deputy Chairman)
- Professor Mahasin Haj Al Safi (member & head of the training committee)
- Lieutenant General Abdalla El Hardalu (member)
- Lieutenant General Alhadi Mohammed Ahmed (member & head of the technical committee)
- Dr. Galal Mohammed (Secretary General of the NEC)
- Mr. Baha'a Eldin Elsayid (NEC supervisor for States of Southern Sudan)

49. In addition to having a secretariat which is responsible for the executive, administrative and financial activities of the NEC, the Commission operates in a substantive way through a system of high committees which it has established throughout the country. There is a Southern Sudan High Committee, which is based in Juba, as well as 25 High Committees established at State level. The NEC has delegated to the Southern Sudan High Committee the primary responsibility for supervision of the elections to the office of President of the Government of Southern Sudan and to the seats in the Southern Sudan Legislative Assembly. All High Committees are responsible to the NEC for administering and supervising the elections in their respective States.

50. Each High Committee consists of five independent, experienced, non-partisan and impartial members. The High Committees are totally independent from any executive bodies or legislative assemblies. The Commission appoints

Returning Elections Officer at the level of Southern Sudan and in each State, and election officers at the level of each geographical constituency, to organize and conduct voter registration, polling, and sorting and counting of ballots.

51. Before the start of an election or a referendum, the NEC appoints a Presiding Officer for every polling centre in each geographical constituency to carry out the polling, sorting and counting processes. The Commission can delegate any of its powers or responsibilities to any of its members, or to any committee or office that it establishes on appropriate terms and conditions.

52. The mandate of the NEC according to the Constitution is as follows:

- Regulation and supervision of the elections of the President of the Republic, President of the Government of Southern Sudan, Governors and the Legislative Assemblies;
- Regulation and supervision of any referendum, excluding the referendum on self-determination for the people of Southern Sudan, and the referendum on the status of Abyei (both of which are required by the CPA);
- Prepare, revise, approve and keep the list of eligible voters;
- Determine the geographical constituencies for the legislative assemblies;
- Issue the general rules of elections and referendum and take the necessary measures to carry them out;
- Establish procedures for the regulation of the candidates' election campaigns, electoral symbols lists, and the accreditation of agents and observers;
- Recruit staff for voter registration and polling;
- Determine the arrangements and schedules for voter registration and polling, and ensure the measures for freedom, justice and secrecy;
- Establish the forms and documents to be used in elections and referendum
- Set the procedures for nominating candidates, for reviewing nominations, for the withdrawal of candidates, and for the publication of the final list of candidates;
- Control the sorting and counting of the ballots, the arrangements of the final results, and declaration of the election or referendum results;
- Postpone any elections or referendum as a result of an eminent national danger and set new dates for voting;
- Cancel the result of elections or referendum subject to a decision of the National Supreme Court;

- Take the necessary action against any person who violates the Elections Law, including election officials or workers who violate the law or any rules or regulations established by the NEC; and,
- Establish and maintain contact and co-operation with political parties.

**c) The Electoral System**

53. The two main principles used for the Sudanese elections are:

- **(a) Majoritarian:** the candidate or party that wins the most votes secures the available seat(s). There are two basic types of majoritarian systems: the Absolute majority or First Past The Post (FPTP), in which the candidate who wins 50% +1 is proclaimed winner. Where no candidate receives an outright majority, a second round or a run off is held between the two candidates with the highest number of valid votes. The candidate with the highest votes during the second round wins the election. There is also the principle of Relative Majority. This is where a candidate who secures the highest vote in an election is declared winner. While Absolute majority is used for the Presidential election, Relative majority is used for the Governorship election.
- **(b) Proportional Representation (PR):** Political Parties are allocated seats in proportion to the number of votes they won. This is called the Party List. The PR is also used for Women; This is called the Women List. The objective of the PR is to redress inequality.

54. The Absolute Majority or FPTP, is used for elections of the President of the Republic of Sudan and the President of the Government of Southern Sudan. Relative Majority is applied in the elections of State Governors and Legislative Assemblies – Geographical Constituencies: 60% of the seats. The Proportional Representation is used for the selection of members of the National Assembly: Women Lists (25%) and Party Lists (15%) of seats – The Southern Sudan Legislative Assembly: Women Lists (25%) and Party Lists (15%) of seats – State Assemblies: Women Lists (25%) and Party Lists (15%) of seats.

55. Therefore, there is combination of both the majority and proportional formulas for the same poll for a number of elections. For each Legislative Assembly (National, Southern Sudan and States), voters are expected to select a candidate from the 'Geographical Constituency' candidates list and a Political Party from both the Party List and Women's List. The election formula divides the seats amongst the three lists as follows:

For the Legislative Assemblies, voters choose from three lists:

- a) Geographical Constituency (Majoritarian): 60% of the seats
- b) Women's List (Proportional): 25 % of the seats
- c) Party List (Proportional): 15% of the seats

For the party-list part, each party presents a list of candidates with as many candidates as there are seats to fill. The qualifying 'electoral threshold' to win a

seat is four percent (4%) of the valid votes for the proportional system lists. Voters vote for a party, and the seats are divided among the parties that receive more votes than the electoral threshold in proportion to their vote totals. It is the parties that decide the order of candidates on their list, and thus the order in which candidates are elected.

56. The method of electing the 15% of Party List members and 25% of Women's List members of the Legislative Assemblies by proportional representation is as follows:

- Each voter casts one vote for the Party of their choice on the Party Lists ballot of the National Legislative Assembly, State Legislative Assembly and if they qualify, the Southern Sudan Legislative Assembly. Each voter also casts one vote for one party on the Women's List of their choice for each Legislative Assembly;
- The NEC calculates each of the Party Lists and Women Lists in the Legislative Assemblies (National, Southern Sudan, State) to determine the number of candidates to be members of the Assembly from each list;
- Political parties which do not reach the specified threshold are excluded from the process of seats allocation

## **V. POLITICAL PARTIES**

57. The Political Parties Act of 2007 provides the legal framework for the registration and regulation of political parties in the Sudan. It establishes an independent national body, the Political Parties Affairs Council (PPAC), which is responsible for registering and regulating activities of political parties in Sudan.

58. PPAC members are appointed by the President of the Republic following extensive consultations and are confirmed with the approval of two-thirds majority of the National Assembly. Members serve a five-year term, and their appointments may be renewed. The Council consists of a full-time chairman and eight (8) part-time members.

59. Current Council members, sworn into office on 25 November 2008, are: Mohamed Bishara Dosa (Chairman); Hassan Abdin; Hussein Khartoum Darfur; Saydna Saeed Hamid; Osman Musa; Iwil Parmina; Angel Issac Jirjis; Daniel Kot Mathiews; and Ceaser Arkangelo Suliman.

60. Article 10 of the Political Parties Act spells out the following functions and powers of the Council:

- To register political parties in accordance with provisions of the Political Parties Act;
- To issue certificates indicating/confirming registration of political parties;
- To indicate in the record the changes that take place in a political party;
- To prepare and maintain a register/record of the changes in a political party;

- To receive complaints relating to the application of the Political Parties Act, or the statute and rules of a political party, and to investigate and decide on them;
- To demand any political party to follow the Constitution, rules and obligations in accordance with the Act;
- To work out its annual budget, submit it to the Presidency for approval and endorsement by the National Assembly, and make the approved budget public.

61. In the past, party activities in Sudan were highly restricted and parties were even banned altogether from 1958-1964, from 1969-1976 and from 1989-1999. Despite important recent improvements of civil and political rights, Sudan's political landscape is dominated by the two leading political parties, the National Congress Party (NCP) and the Southern People's Liberation Movement (SPLM).

62. There are a total of 85 political parties duly registered for the 2010 elections. The main political parties include:

- The Democratic Unionist Party
- *Umma* Party
- The National Democratic Alliance
- The Sudan People's Liberation Movement
- The Socialist Democratic Party (formerly Sudanese Socialist Union)
- Liberal Democrats
- The National Congress Party
- The Ba'ath Party (formerly pro-Iraqi Command)
- The Communist Party of Sudan
- The United Democratic Liberal Party
- The National Alliance of Sudan

The presidential candidates include:

<b>Party</b>	<b>Presidential Candidate</b>
NCP	Omar Hassan Al-Basir
SPLM	Yasir Arman
Umma	Sadiq Al-Mahdi
DUP	Hatem Al-Sir
PCP	Abdullah Deng Nhial
SCP	Mohammed Ibrahim Nugud
URRP	Mubarak Al-Fadil
SAF	Abdel-Aziz Khalid
NNDP	Munir Sheik Deen
SDU	Fatima Abdel-Mahmood

Independent	Kamal Al-Tayib Idriss
Independent	Ahmed Goha

## VI. PRE-ELECTION ACTIVITIES

### a. African Union and the Sudan

63. Over the years, the AU has actively engaged in efforts to assist the people of Sudan to address their challenges in line with the Continent's commitment peaceful resolution of conflict, development and the construction of national democratic societies. These include:

- the AU's support for negotiations that led to the adoption of the 2005 Comprehensive Peace Agreement CPA which provides a political framework for managing the diversity of Sudan and envisioning its democratic transformation;
- the constitution of the African Union Mission for Sudan (AMIS), the first peace-keeping in the Darfur region of Sudan which comprised African peace mission. This was later hybridised to include peace keepers from beyond the continent in a joint African Union – United Nations umbrella of UNAMID, the African Union and United Nations Mission in Darfur;
- facilitation of various peace agreements between belligerent parties, including the current hybrid Darfur peace mediation process together with the United Nations as led by the Joint Chief Mediator, Mr. Djibril Bassole;
- the formation of the African Union High Level Panel on Darfur to investigate measures through which the Darfur crisis can and must be addressed, expeditiously;
- the formation of the African Union High Level Implementation Panel on Sudan to assist Sudan in the resolution of the Darfur crisis, the implementation of the CPA and the democratisation process, which has commenced its work and supported the elections process; and,
- the monitoring and observation of the 2010 General Elections

64. The AU Observer Mission engaged in several pre-election activities in Khartoum and the areas to which the Mission's members were deployed. These included:

- The 3-day briefing and orientation for members of the Observer Mission;
- Issuance of the Arrival Statement announcing the launch of the African Union Mission in Sudan;
- Meeting with various stakeholders involved in the electoral process, namely:
  - i. The African Union Liaison Office in Sudan;
  - ii. The Carter Center Election Observer Mission to Sudan;
  - iii. Mr. Adil Bakhiet, an activist from the Sudanese civil society;
  - iv. The NCP;
  - v. The NEC;
  - vi. Peace-Bridge, a coalition of domestic observers;
  - vii. SPLM;
  - viii. KASE, a coalition of domestic observers;
  - ix. The CPOS and,
  - x. UNMIS.
- Attending briefing sessions and press conferences organised by NEC.
- Meetings with other observer missions including the Arab League, the Carter Centre, the European Union, the Inter-Governmental Authority on Development (IGAD) and the diplomatic community based in Khartoum;
- Observation of the concluding stages of the election campaign, as well as logistical arrangements ahead of the polls;
- Identification of polling stations and verification of the status of preparedness of the NEC in the various areas to which AU Team members were to be deployed.

## **IX. OBSERVATION OF THE ELECTIONS**

### **a) Voter Registration**

A national census for the people of Sudan was initially planned to be held in July 2007, then from 15 November 2007 onwards, and again delayed to start on 2 February 2008 onwards due to funding issues. Thereafter, it was postponed to 15–30 April 2008. On 12 April 2008, a few days before the census was scheduled to start, SPLM contested the procedure of the census, stating that they wanted Internally Displaced People (IDPs) to return to their homes before the census would take place.

The census started on 22 April 2008 and was completed by 6 May 2008, with about 90% of the country covered. The results of the census estimate the total

population of Sudan at 39 million, a figure that was contested by a number of stakeholders, including the SPLM.

65. Eligible voters must register in order to be allowed to cast a vote. Any voter who fulfils the requirements has a right to be registered for the elections. A personal identification document is required for the registration – yet, many Sudanese, especially in rural areas and refugees/Internally Displaced Persons do not have these documents. They were thus disenfranchised. Voter registration lasted from 1 November 2009 to 7 December 2009. The NEC declared that at least 75.8% of the eligible Sudanese were registered, that is 15.7 million out of the estimated electorate of 20.7 million. Despite logistical and security challenges, shortcomings in civic education and uneven turnout rates across Sudan's states, 71% of the estimated eligible population of Northern Sudan and 98% of Southern Sudan's eligible population registered. The registration rates were particularly low in conflict-ridden Darfur, home to one fifth of Sudan's total population.

According to the law, registration in the electoral register is a basic right and an individual responsibility of every Sudanese citizen who meets the required legal conditions. The legal conditions for Sudanese living within the Sudan are:

- Be resident in the geographical constituency for at least three months before the close of the voter registration period;
- Have a personal identification document or certificate authenticated from the People's committee at the locality or the native or traditional administrative authority;
- Have not been registered in any other geographical constituency.

Sudanese citizens, who are living outside the country and who possess a Sudanese passport and valid resident visa in the country where they now reside, have the right to apply for registration, or to be included in the electoral register. If their names are on the register, they will have the right to vote for President of the Republic of the Sudan and for referendums organized by the NEC.

#### **b) Delimitation of constituencies**

According to the National Elections Act of 2008, 60% of Sudan's lawmakers (national, state and Southern Sudan levels) shall be elected as representatives of geographical constituencies.

Geographical constituencies are voting districts formed by the National Elections Commission (NEC). Constituencies are established to ensure that the needs and interests of citizens in each geographical area are represented in the various Legislative Assemblies. Each constituency shall send one representative to the Legislative Assembly. During the election, there shall be separate ballot papers for each constituency listing the candidates seeking to represent that specific district in the Legislative Assembly.

In fact, there shall be two types of constituencies in each state one for the National Assembly and one for the State Assembly. In addition, each State in the Southern part of the country shall also have constituencies to elect members of the Southern Sudan Legislative Assembly.

In principle, constituencies should have approximately the same size of the population, but the NEC can consider other factors such as geographical configuration and population movements when delimiting boundaries of different constituencies. According to Section 34 of the National Elections Act, NEC is responsible for the delimitation of constituencies for the Legislative Assembly elections on the basis of the population census results.

### **c) Elections Campaign**

66. The AU Observer Mission witnessed political party campaign activities both through the media and on the ground. These activities were marked by their vividness and by the excitement with which they were followed by the target populations. Although campaign messages did not always address the issues, they were generally free from violence. The campaign rallies, which were officially held until 48 hours prior to the start of polling on 11 April, 2010 were also peaceful.

The campaign process overseen by the NEC was scheduled to last for 57 days from 13 February 2010 to 9 April 2010. Although all candidates and political parties were guaranteed equal access to the largely state-owned media and equal treatment by public authorities (Art. 65-66 NEA), there were complaints from some opposition parties. In addition, they complained that their campaign posters were being removed and/or destroyed.

Candidates and parties must not receive financial and material support from foreign countries or any foreign body (Art. 67 NEA). Therefore, the Diaspora including exiled Sudanese politicians cannot influence in the elections.

### **d) Election Observation**

Article 41 (2) of the Interim Constitution provides that every citizen, who has attained the age specified by the Constitution and the law, shall have the right to elect and be elected in periodic elections. To ensure the transparency of elections, the National Elections Act 2008 empowered the NEC to invite national and international election observers. Sections 104, 105 and 106 of chapter eleven of the said Act envisages the power of inviting observers, functions of observers and revocation of observer's accreditation by the NEC.

"It will be for observers – 750 international and 18,000 domestic – to assess the elections." The National Elections Commission has determined 7,803 polling centres in the north, 3,820 centres in Southern Sudan; and 13,335 polling stations in the north and 6,738 stations in Southern Sudan.

### **e) Polling Activities**

67. General elections were held over five (5) days, from 11 April to 15 April 2010, after an extension of two (2) days from the original 3-day polling which was scheduled to end on 13 April 2010. It is worth mentioning that these elections were initially scheduled to take place around July 2009, but were delayed because of problems encountered by the NEC with the preparation of the historic polls, especially the census and the voter registration process. The census results were expected early April 2009 but were not released until mid-May 2009.

### **f) The voting process**

The African Union Mission observed the following:

1. Most polling stations were established in public institutions, especially schools. A small number of polling stations could, however, be found in open areas, with little or no protection for the polling staff and the voting materials, such as ballot boxes and booths;
2. Materials depicting the voting procedures were prominently posted and were visible at each polling station;
3. Voting was delayed on the first day of election due to late distribution of some election materials as well as misprinting of party symbols on the ballot papers.
4. The voting process was generally orderly and peaceful. The Mission did not observe any major hindrance or disturbance that could have negatively affected the polling, particularly in North Sudan;
5. There were noticeable problems of late delivery of ballot papers in a number of polling stations, which resulted in delays for some hours in the opening of these polling stations. In some polling centres or stations, the voting was interrupted because of shortage of ballot papers, especially in South Sudan;
6. There were between five and seven polling officials in each polling station, with the Presiding Officer heading a polling station, while others were assigned specific duties. This eliminated confusion and ensured orderliness at the polling stations. In general, the polling staff handled the voting process in an efficient and transparent manner, a sign that they were effectively trained for the assignment;
7. The polling staff showed high professional conduct and commitment to their duties. The staff followed the prescribed procedures for voting and remained steadfast throughout the duration of the polling. The Mission commends the dedication of the polling staff, as in some cases they were working without being paid upfront;
8. There was an impressive presence of party agents, representatives of candidates and observers from domestic groups in most polling centres and stations visited. This was a positive indication of the commitment of the people and stakeholders of the Sudan in the current electoral process;

9. There was a notable presence of other international observers, beside the African Union Mission, more specifically the Arab League, the Carter Centre, the European Union, and the Inter-Governmental Authority on Development (IGAD);
10. There were long queues in some of the polling stations especially during the first two days of voting. However, voters remained calm, patient, enthusiastic, peaceful and orderly, despite delays in the opening and shortage of election materials;
11. Due to the high level of illiteracy in the rural areas, many voters required assistance to cast their vote. In most cases, this assistance was provided by polling officials;
12. There were allegations that Presiding Officers in some of the polling stations were accepting letters of introduction from local electoral committees which did not bear the photograph of the resident, contrary to the NEC guidelines;
13. There were complaints that the names of some voters were not on the voters list, and/or that some voters who went to cast their vote were told that the records showed that they had already voted;

#### **g). Successes**

In terms of successes:

1. The decision to conduct democratic elections in the Sudan is by itself a huge achievement and an important milestone in the peace and democratisation processes of the country, considering its recent political history, the numerous challenges relating to the size of the country, the security situation and the political tensions prevailing ahead of the momentous elections;
2. The polling officials in almost all the polling stations visited were competent and professional in the performance of their duties. Procedures were, in most cases, followed;
3. Voters in all the polling stations visited were calm, orderly and followed instructions by the relevant polling officials;
4. The high participation of the elderly and women, as both voters and polling officials, was commendable;
5. There was active participation of party agents, representatives of candidates and observers from local groups and organisations during the voting process;
6. There were polling stations established in camps dedicated to Internally Displaced Persons.

#### **h). Challenges**

The Mission observed the following challenges:

1. The complexity of the elections, as a result of the combination of several polls being held concomitantly, amid pressures for the effective implementation of the CPA, security issues, contested census and Southern Sudan boundary dispute;
2. The withdrawal of some of the prominent political parties and candidates in the election process after the legal deadline and the printing of ballot papers in Khartoum;
3. A significant percentage of voters needed assistance in order to cast their vote. In most cases, they took the option allowed by the law to be assisted by polling officials. This practice could be misused for political or partisan gains;
4. The shortage or inaccuracy of election materials, especially ballot papers in some polling stations across the country, especially in South Sudan;
5. The printing of some voters' registers and ballot papers exclusively in Arabic made it difficult for non-Arabic speaking Sudanese voters;
6. Polling booths in many cases were set up in such a manner that they did not guarantee the secrecy of the vote. In other cases, polling booths either did not exist or had to be improvised.

#### **i). Recommendations**

Based on observations and findings made by its different teams, the Mission recommends that:

1. In general, the National Elections Commission needs to manage and administer future elections in such a manner as to command the confidence of all parties, candidates and the electorate in general, and should be adequately resourced by the Government to carry out its functions. Many of the concerns and shortcomings witnessed during this process were as a result of the failure of the NEC to adopt a consistently transparent decision-making process and to have a clear communication strategy;
2. Although the electoral law gives the National and Southern Sudan Government a discretion to fund political parties, governments need to adopt a clear policy on this matter;
3. Systematic voter education and the training of polling staff should be carried out. Given the low levels of literacy, special education targeting illiterate voters should be adopted and carried out well in advance of the polling;
4. A legitimate aspect of the elections process is the possibility of formally challenging the results on the basis of breaches of the electoral laws; It is therefore vital that the machinery for adjudicating electoral challenges should work efficiently and impartially and aggrieved parties should be encouraged to resort to the law for redress;

5. There is need to ensure that there is a level playing field for all political parties and candidates in elections;
6. Election materials are printed in both Arabic and English;
7. Illiterate voters should be assisted by their family members or people they trust. Polling staff should not be allowed to assist an illiterate voter at the polling booth;
8. There should be continuing voter education;
9. Polling booths should be provided in all polling stations;
10. Both the voter card and register should bear the photograph of the voter; to prevent multiple voting and impersonation;
11. There should be a nationwide display of provisional voter's registers for the purpose of verification;
12. Election materials should be provided at every polling station adequately and timely.

## **CONCLUSION**

A country emerging out of a long period of repression, civil war, contending as Sudan does, with underdevelopment, manifesting in part, in high levels of illiteracy, an on-going crisis of the magnitude of Darfur cannot, justly, be compared to one or others that have enjoyed peace, steady and incremental economic development and political stability 24 years previously and before.

To this end, the elections constitute an important milestone in the country's democratisation process. Given Sudan's history, its current and immense challenges on many fronts, the just-completed elections though imperfect are historic and are building-block for the future elections.

The African Union Mission wishes to acclaim and congratulate the people of the Republic of Sudan, political parties and candidates, as well as all the stakeholders involved in the current electoral process, for the peaceful conduct of the 2010 Executive and Legislative Elections. These elections constitute undoubtedly a fundamental milestone towards realizing the democratic transformation of the country as espoused by the 2005 Comprehensive Peace Agreement.

The Mission is of the view that objectively, the confluence of circumstances that make up Sudan's recent history would produce imperfect but historic elections which constitutes an important step forward in the country's democratisation process.

These historic elections have indeed afforded the majority of the Sudanese citizens the opportunity to exercise their civic and democratic rights by electing representatives of their choice for the first time in 24 years. The Mission believes that the just-concluded multiparty elections will enhance the peace and democratic processes underway in the country.

