

Common Code of Conduct for the Referenda and Popular Consultations

October 2010

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18/10/2010
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WHEREAS the Comprehensive Peace Agreement has provided for the people of South Sudan to exercise, democratically, their right to self-determination, *inter alia*, through an internationally monitored referendum in which they may vote either to confirm the unity of Sudan or to secede;

WHEREAS the Comprehensive Peace Agreement has also given a democratic right to the residents of Abyei to cast a separate ballot in a referendum, to be held simultaneously with the referendum of the people of South Sudan, to determine whether Abyei should retain its special administrative status in the North or whether it should become part of Southern Sudan;

WHEREAS the Comprehensive Peace Agreement requires the elected legislatures of South Kordofan and Blue Nile States to establish, in each state, a Parliamentary Assessment and Evaluation Commission which shall organise a democratic Popular Consultation to ascertain the views of the people on the implementation of the provisions of the Comprehensive Peace Agreement relevant to their state;

WHEREAS the National Assembly has enacted legislation to facilitate the organization and conduct of the two referenda and the popular consultations, and to provide administrative mechanisms to oversee these processes;

RECOGNISING the utmost necessity for protecting the credibility and integrity of the referenda and popular consultation processes;

ACKNOWLEDGING that successful referenda and popular consultation processes are the common responsibility of a range of stakeholders, including state, non-state, national and other actors, as well as members of the public;

RECOGNISING THEREFORE, the need to promote common principles and standards of conduct to facilitate peaceful, free, fair, timely, efficient and democratic referendum and consultation processes;

NOW THEREFORE the parties, whose signatures appear in Annex 1, agree to adopt this Code of Conduct:

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THE CODE

PART I

Definitions

1. The following terms shall have the following meanings:

"Alternative Coordination Body" refers to a body other than the PPC, which is adopted by the parties for coordinating the implementation of this Code of Conduct;

"CPA" refers to the Comprehensive Peace Agreement signed between the Government of the Republic of Sudan and the Sudanese Peoples Liberation Movement/Army on 9th January 2005;

"CPA Partners" refers to the Government of the Republic of Sudan and the Sudan People's Liberation Movement/Army;

"ECC" refers to the Electoral Code of Conduct for Sudan, adopted in Juba in March 2010;

"Popular Consultation Act" refers to the Framework of the Popular Consultation in Southern Kordofan and Blue Nile States Act, 2010;

"PPC" refers to a Political Parties' Council;

"The Commissions" refers, collectively, to the South Sudan Referendum Commission, the Abyei Referendum Commission, and the Parliamentary Commissions on Popular Consultations of each of the states of Blue Nile and South Kordofan;

"The Parties" means the political parties, political parties' councils, organisations, and other bodies or collectives which have adopted or subscribed to this Code of Conduct;

"The Relevant Laws" means provisions of the Interim National Constitution, 2005, and the Interim Constitution of Southern Sudan, 2005, as applicable to the referenda and popular consultations; the South Sudan Referendum Act, 2009; The Abyei Area Referendum Act, 2009; The Framework of the Popular Consultation in Southern Kordofan and Blue Nile States Act, 2010; any subsidiary legislation under these Acts; and, any regulations, orders, directives, guidelines or any other formal instrument relating to the Relevant Processes;

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"The Relevant Processes" means all or any of the following: the referendum on self-determination for Southern Sudan; the referendum on Abyei; and the popular consultation in Blue Nile state and the popular consultation in South Kordofan state;

"This Code" or "This Code of Conduct" means the Common Code of Conduct for the Referenda and Popular Consultations.

PART II

Adoption of Common Code of Conduct

2. This Code shall govern the conduct of political parties, organisations, Political Parties' Councils, and other bodies which agree to be bound by its provisions with respect to their activities connected to:
 - (i) the Southern Sudan Referendum on Self determination;
 - (ii) the Abyei Referendum to determine the administrative status of Abyei;
 - (iii) the Popular Consultation in Blue Nile State;
 - (iv) the Popular Consultation in South Kordofan.

3. A Party shall be governed by this code if it:
 - (i) signs the Code;
 - (ii) notifies a Political Parties' Council or an Alternative Coordination Body of its agreement to be bound by this Code; or
 - (iii) proclaims publicly its intention to be bound by this Code.

However, by adopting this Code of Conduct, a Party is not obliged to participate in each Relevant Process; neither is a party expected to undertake activities in areas where it has no capacity or competence to do so, or where it does not have an effective presence.

4. This Code of Conduct shall complement any other codes or guidelines adopted with respect to any of the Relevant Processes.

5. This Code is subject to the Relevant Laws, which the Parties undertake to uphold and observe.

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PART III

Commitment to Credible Processes

6. The Parties pledge, collectively and individually, to create an environment favourable to the democratic and peaceful conduct of the Relevant Processes and thereby to ensure that the freewill of the people is expressed in each process.
7. The Parties shall strive to achieve free, fair, transparent, timely and efficient conduct of the Relevant Processes, and in that regard, shall promote and protect:
 - (a) An appropriate environment and conducive security conditions for preparing and organising each process;
 - (b) Freedom of expression for all Sudanese people generally, and the people in South Sudan, Blue Nile and South Kordofan states and the residents of Abyei in particular;
 - (c) Freedom of assembly and movement for all those taking part or participating in the above processes;
 - (d) The effective participation of Sudan's international partners, particularly the witnesses to the Comprehensive Peace Agreement, in the observation and monitoring of each process;
 - (e) The timely and effective deployment of national, regional and international observers for the campaigns and each Relevant Process;
 - (f) Equal opportunity and the liberty for registered political parties and others acting in accordance with the principles of the Comprehensive Peace Agreement, to express their views on the issues under each process;
 - (g) Effective and accessible voter and civic education and awareness which is sensitive to the views and needs of women, those without a formal education, youths and traditional leaders;
 - (h) The absolute right to a secret vote in the referenda.

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PART IV

Civic Education and Public Information

- 8. The Parties shall develop and support the broadest possible programmes for informing the general public, the voters in the referenda within and outside Sudan, participants in the popular consultations, and other stakeholders of the formal procedures, substantive issues and the legislation and rules relevant to each process.

Principles for Civic Education

- 9. Civic and voter education and public information shall be carried out impartially, accurately, transparently and in accordance with the Relevant Laws as well as this Code of Conduct.
- 10. The Parties shall promote respect for differing opinions, and shall endeavour to avoid misrepresentation of other positions and, generally, shall strive to defuse tensions between groups holding different views.
- 11. The Parties shall mobilise and utilise resources for civic education responsibly and fairly.

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PART V

Role of the Commissions

- 12. The Commissions should uphold democratic principles and transparency in their work, and shall promote cooperation and dialogue with the parties and stakeholders, particularly in the development of further regulations governing the relevant process.
- 13. The Parties shall support and cooperate with the Commissions in furtherance of the above commitments.
- 14. The Parties, especially the parties in power, shall protect the independence of the Commissions.

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PART VI

Responsibilities of the CPA Partners

15. In recognition of their particular responsibilities under the Comprehensive Peace Agreement, and as parties in power across Sudan, the CPA Partners shall:
- (a) Ensure the timely establishment and full deployment of the relevant Commissions.
 - (b) With a view to promoting informed choice during the referenda, keep the Parties, the public and other stakeholders informed of the progress of the negotiations on the issues set out in section 67 of the Southern Sudan Referendum Act, 2009 (post-referendum issues);
 - (c) Keep the public and other stakeholders regularly informed of developments relating to the preparations for the referenda and popular consultations;
 - (d) Cooperate with other national and international stakeholders in the above endeavours.

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PART VII

Conduct of Campaigns and Activities

16. The Parties shall uphold democratic values during the conduct of campaigns and advocacy.

Commitment to Non-Violence

17. Under no circumstances shall a Party use, or allow its members to use, force or threaten violence, display weapons, or employ any other forms of intimidation.
18. The Parties shall avoid violent confrontations and refrain from inciting or aggravating tensions within and across communities.
19. Each Party shall take an unequivocal public stand against violence.

Prohibition of Inflammatory Speech and Actions

20. The Parties shall not make threats or pronouncements that might incite fear and apprehension in the public about the consequences of any possible outcome of a referendum or popular consultation.

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21. The Parties shall ensure that their members and supporters refrain from inciting prejudice or feelings of contempt against persons of any race, ethnicity, gender, religion, culture, social group, language, or persuasion, or seek to insult, intimidate or defame such persons.
22. The Parties and their supporters may not obstruct or disrupt any lawful activities or meetings relating to the Relevant Processes, or obstruct the distribution or display of campaign and educational materials.
23. The Parties shall inform the relevant authorities as soon as they become aware of any activity or event that may lead to a breach of the peace.

Peaceful Gatherings and Processions

24. Any Party organising gatherings and processions shall be responsible for ensuring that the activities of its members and supporters pass peacefully and that members of the public and the property of third parties are protected.
25. Organisers of public gatherings and processions shall abide by any legal provisions and lawful official instructions regulating the conduct of the meetings and processions.
26. The Parties shall ensure that public gatherings are not disruptive; that they are not held in market places during their hours of business or in schools during schooling hours, and never in the proximity of hospitals.
27. The use of microphones shall be prohibited after midnight and before sunrise.

Respect for Private Life of Others

28. The Parties shall ensure that criticisms when made are confined to the substantive issues and avoid any aspect of the private life of individuals that is not connected to the substantive issues.
29. In the course of its activities, a Party and its supporters shall refrain from any act which may disturb the private life of others, such as picketing before homes.
30. The Parties shall not use any person's land or property without the owner's permission.

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PART VIII

The Role of the Media

The State and Media

- 31. State-owned media shall give equitable and fair coverage to the various political viewpoints relevant to the referenda and popular consultations.
- 32. State-owned media shall abide by the highest standards of fairness in their coverage of the referenda and popular consultations.
- 33. State authorities shall guarantee to representatives of local and foreign media access to all information relating to the processes of the referenda and the popular consultations.

Responsible use of the Media

- 34. The Parties shall ensure that the media is used constructively and not to spread misinformation or alarm, or to incite opinion against any lawfully held views or advocacy positions.
- 35. The Parties shall not obstruct the lawful activities of the press, including the electronic media.

Responsibilities of the Media

- 36. Media houses and outlets shall cover issues relating to the referenda and popular consultations responsibly and in furtherance of democratic values. In particular, the media shall:
 - (i) Report accurately, honestly and impartially on the events and issues, avoiding sensationalism and inflammatory language.
 - (ii) Present controversial issues with care, affording fair representation to opposing views.
 - (iii) Comply with relevant laws and lawful guidelines from official oversight bodies.
- 37. Media houses and establishments shall be encouraged to monitor their own output to ensure compliance with the above principles.
- 38. The media and other organisations shall publish the declared results of the referenda and popular consultation in an unbiased and accurate manner.

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PART IX

Provisions for Specific Processes

Abyei Referendum

- 39. The Parties shall promote, and cooperate with, all efforts to enable a democratic, free, fair and transparent referendum to be conducted in Abyei in accordance with the provisions of the Comprehensive Peace Agreement and the Abyei Area Referendum Act, 2009.
- 40. The CPA Partners shall undertake, and the Parties shall support and promote, genuine efforts to resolve peacefully and expeditiously all outstanding issues relating to the referendum process as well as any disputes and tensions that may arise within Abyei.

Popular Consultation – Blue Nile and Southern Kordofan States

- 41. The Parties shall, in accordance with the Relevant Laws, uphold the democratic right of the peoples of Blue Nile and South Kordofan states to express their views on the adequacy of the implementation of the Comprehensive Peace Agreement in relation to their respective state.

Principles for Conduct of Popular Consultation

- 42. Each Popular Consultation shall be conducted democratically, in the awareness that these processes for engaging the people of Blue Nile and South Kordofan States serve as a model for solving political problems throughout the country.

Accordingly, each Popular Consultation should:

- (a) Be designed and managed in a manner that enables the people to make the most informed assessment of the implementation of the CPA with respect to that state;
- (b) Provide a genuine opportunity for the people of the state to understand the background, terms of reference, processes and potential outcomes of the Consultation and to discuss and present their views on all the issues, accordingly;
- (c) Be conducted in an inclusive manner and, in particular, shall ensure the effective participation of women, the different ethnic, cultural and religious communities and social groups in each state;
- (d) Reflect accurately and treat with respect, minority views on the issues under consideration.

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PART X

Upholding Legality of the Relevant Processes

44. The Parties shall cooperate fully with the Commissions, their subordinate Committees and other official bodies in the discharge of their respective duties under the Relevant Laws.

Respect for Relevant Laws

45. The Parties and their supporters and shall refrain from and at all times seek to prevent, breaches of the Relevant Laws, in particular, acts of corruption and disruption of the polling and popular consultation processes.
46. The Parties shall not procure votes through unlawful means or falsely assert to voters that their vote will not be secret or will not count.

PART XI

Oversight and Complaints Mechanisms

47. The Parties shall follow peaceful means for resolving complaints arising from the referenda and popular consultation processes.

Duty to Report and Deal Promptly with Violations

48. The Parties shall report any breaches of the Relevant Laws to the Commissions or the police, promptly, and shall cooperate with any investigations or interventions that may follow.

Role of Political Parties Councils

49. Political Parties may cooperate in the oversight and implementation of this Code of Conduct through the Political Parties Councils provided for under the Electoral Code of Conduct for Sudan (ECC), March 2010.

50. The Oversight and Complaints Mechanisms provided for in Annex 1 of the ECC may be adapted for purposes of this Code of Conduct and in particular, to promote the Code and to deal with the diversity of potential complaints.

51. A Political Parties' Council shall invite any Party, which operates within its area of jurisdiction, and which has signed or adopted this Code of Conduct to participate in the mechanisms for implementing this Code.

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52. The African Union may promote mechanisms for monitoring the implementation of this Code.

Alternative Coordination Bodies

53. In an area or region where there is no suitable PPC, or where the circumstances otherwise require, parties to this Code may establish an alternative coordination body through which to promote the Code.

54. A Political Parties' Council, and any alternative coordination body established to oversee this Code, shall cooperate with other PPCs, coordination bodies, and the Commissions in promoting the objectives of this Code of Conduct, and in resolving disputes relating to the Relevant Processes in particular.

Handling of Complaints

55. Complaints, objections or allegations brought to the PPC or to an alternative coordination body, shall be addressed promptly and fairly. The principles of natural justice and due process shall always be upheld.

56. The Commissions and other responsible authorities should ensure that the formal mechanisms for resolving disputes arising from the conduct of the referenda or the Popular Consultations are established in a timely manner and that their procedures are easily accessible and adequately publicised.

57. The Parties shall not abuse the right to complain by making false, frivolous or vexatious complaints about the violation of the Relevant Laws or this Code of Conduct.

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PART XII

Observation and Monitoring of Processes

Cooperation with Observers and Monitors

58. The Parties and the Commissions shall respect the mandates and independence of accredited local and international observers and monitors as provided for by the Relevant Laws.

59. Observers and Monitors shall carry out their duties in accordance with the Relevant Laws and with accepted international standards.

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Facilitating Observers and Monitors

60. All stages of the referendum and popular consultation process should be open to observation. Accordingly, the Commissions shall facilitate the freedom of movement of accredited observers and monitors as well as their access to information and unobstructed communications.

PART XIII

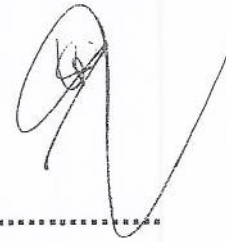
Outcome of Referenda and Consultations

61. The Parties shall accept and respect the outcome of a referendum or popular consultation conducted in accordance with the Relevant Laws and shall encourage others to do so.

Done and signed in Juba this 17th Day of October, 2010

In the Presence of:

Philip Barnabas Afako



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African Union High-Level Implementation Panel

Signatories of the Common Code of Conduct