

Electoral Code of Conduct for Sudan March 2010

WHEREAS the people of the Sudan will embark on National Elections in April 2010;

WHEREAS there is a general consensus among the Sudanese people that these National Elections will be the first multi-party elections in nearly 25 years reflecting the determination among the Sudanese people to achieve peace, democracy, human development, justice under the rule of law and promotion of fundamental human rights and freedoms in the spirit of the Comprehensive Peace Agreement and the National Interim Constitution;

WHEREAS the political parties participating in the Government of National Unity as well as those in opposition have agreed to abide by and respect the provisions of the Comprehensive Peace Agreement, the Interim National Constitution, the National Elections Act, the Political Parties Act of the Sudan, and any relevant regulations issued under those Acts;

AND WHEREAS the said political parties consider that an Electoral Code of Conduct, with an effective complaints mechanism, is necessary to complement the above laws in order to ensure that the forthcoming National Elections as well as future elections in Sudan are conducted in a transparent, fair, inclusive and democratic manner;

NOW THEREFORE the parties cited in Annex 2 below, and whose authorised representatives have duly signed this Code, hereby agree as follows:

THE CODE

PART I

Definitions

1. The following terms shall have the following meanings:
 - (a) "CPA" refers to the Comprehensive Peace Agreement signed between the Government of the Republic of Sudan and the Sudanese Peoples Liberation Movement/Army on January 9th 2005;
 - (b) "INC" refers to the "Interim National Constitution" adopted in 2005;
 - (c) "National Elections" means the elections to be conducted in April 2010 for the Presidency of the Republic, the Presidency of Southern Sudan, the national Legislature, the Legislature of Southern Sudan, State Elections and elections for Governors (Walis) in all the states registered;
 - (d) "NEC" refers to the National Elections Commission;
 - (e) "PPC" means a Political Parties Council;
 - (f) "Security Agencies" includes the armed forces and all law enforcement and intelligence organs;
 - (g) "The Electoral Laws" means relevant provisions of the Interim National Constitution, 2005; the National Elections Act, 2008; The Political Parties Act, 2007; any subsidiary legislation under these Acts; and any regulations, orders, directives, guidelines or any other instrument issued by the National Elections Commission in the exercise of its powers;
 - (h) "The Parties" means collectively all the political parties who are contesting the National Elections, including independent candidates, coalitions of parties, fronts, alliances and movements;

- (i) "This Code" or "This Code of Conduct" means this Electoral Code of Conduct for Sudan.

PART II

Respect for the Code and the Electoral Laws

2. The Parties shall at all times respect, promote and abide by this Code of Conduct. A Party shall be bound by this Code if it signs the Code or if it otherwise adopts the Code, by, for example, participating in the processes of the Political Parties Councils.
3. This Code is subject to the Electoral Laws of Sudan, which the Parties hereby commit themselves to adhere to and observe.

Voter Education and Participation

4. The Parties shall educate themselves and their supporters on the Electoral Laws and this Code, and shall individually and collectively promote voter education and participation in the election process, particularly the involvement of youth, women and traditional leaders.

PART III

Conduct of Campaigns – General Provisions

Responsibility of Parties for Members and Others

5. Every candidate and political party shall be responsible for the conduct of their agents, members and of their supporters who are under their control, in connection with the elections campaigns.

Prohibition of Inflammatory Speech and Acts

6. The Parties shall ensure that their candidates, officers and supporters refrain from any conduct, speech or publication which may incite feelings of hate or contempt against persons of any race, ethnicity,

gender, religion, culture, language, or seek to insult, intimidate or defame such persons.

Peaceful Conduct during Campaigns

7. The Parties shall ensure that their officers, candidates and supporters refrain from conduct which may disturb the public peace and tranquillity, including the show of force or the threat or use of violence.
8. Under no circumstances shall candidates and party members carry weapons or use force of any kind, during meetings, public rallies or other campaign activities, or allow their supporters to do so.
9. Political parties and candidates shall immediately inform the relevant authorities as soon as they become aware of any event that may lead to the outbreak of violence.
10. The Parties shall not obstruct election campaigns of rival parties or candidates; including by disfiguring or tearing posters of rivals, or by throwing stones or other objects at political rallies of competing candidates and parties.

Political Gatherings and Processions

11. The Parties shall inform (not ask permission from) the authorities concerned, in writing, of any public gathering they propose to hold.
12. Upon notification by a Party, the relevant authorities shall take immediate steps towards the proper organisation of the gathering in order to ensure security and to regulate traffic.
13. Where a Party proposes to organise a political procession, it shall notify the relevant authority of the starting point, the route, end point and time of the procession.
14. Upon being notified of the plans for the procession, the relevant authorities and the police shall immediately make the necessary

arrangements for security and the management of traffic during the procession.

15. The relevant authorities may propose adjustments to the plans for the procession for the sole purpose of providing better security and the proper management of traffic.

Prohibited Venues for Gatherings

16. The Parties shall ensure that assemblies, rallies and public political speeches shall not be held within government offices, military facilities, mosques, churches, other places of worship, or within market places during their hours of business, and shall not be held in the proximity of schools during schooling hours and, at all times, not in the proximity of hospitals.

Use of Microphones

17. The Parties shall observe the NEC directives on the use of microphones; which are prohibited after midnight and before sunrise.

Responsibility for Public Safety

18. Parties organising gatherings and processions shall be responsible for ensuring that the activities of their members pass peacefully and that members of the public and the property of third parties are protected.

Respect for Private Life and Property of Others

19. The Parties shall ensure that criticism of other Parties, candidates or other persons, when made, is restricted to their policies and programmes, and shall avoid all aspects of private life not connected to the public activities of such persons or such parties or their candidates.
20. The Parties and their supporters shall refrain from any act which disturbs another person's home life such as demonstrations or picketing before their homes as a form of protest against their candidature, programmes or opinions.

21. The Parties shall refrain from using, and shall not allow their supporters to use, any person's land or property without the owner's permission.

PART IV

Media Issues

Use of Media

22. The Parties shall ensure that their use of the media adheres to the provisions of the Electoral Laws, especially Section 66 of the National Elections Act, 2008. Parties shall use the media constructively and shall refrain from obstructing the campaigns of other Parties.
23. The Parties and their supporters shall respect the right of political comment during the elections and shall not harass, intimidate or threaten journalists; neither shall they obstruct the activities of the press, including the electronic media.

Equitable use of State Media

24. The Parties, particularly those in Government, shall ensure that all publicly-owned media including radio, television, newspapers and other publications are available to all election contestants in a fair and equal manner.
25. Accordingly, government agencies and officials at all levels are obliged to promote equal access to candidates in respect of such facilities as radio and television stations, assembly halls and newspapers under their respective authority.

Media Complaints

26. The Parties may establish specialised Media Committees, pursuant to paragraph 18 of Annex 1 of this Code, to deal with complaints relating to the use of media.

27. The Parties shall cooperate with the mechanisms established by the NEC for ensuring ethical and equitable use of the media under the Electoral Laws.
28. The Parties may monitor and make representations to the NEC regarding the enforcement of the media guidelines and rules under the Electoral Laws, through the PPCs, specialised Media Committees or any other mechanism.

PART V

Non-application of Certain Laws and Official Powers

29. The Parties in Government shall ensure that the laws, regulations or orders intended to maintain public peace and tranquillity shall not be used to prevent or deter lawful peaceful rallies, assemblies and meetings organised for election campaigns.

Protection from Arrest and Detention

30. Security agencies shall not arrest or detain any candidate during the election campaign unless that candidate is suspected of committing an offence for which the police may arrest a person without a warrant.
31. Where a candidate is suspected of committing any other offence, he or she shall not be arrested or detained until after the NEC has officially declared the election results.

Exemption of Candidates from National Service

32. Electoral candidates shall not be required to undertake national service during the campaigns.

PART VI

Conduct of Official Business during Elections

Duty of Parties in Government

33. During the election period, a Party in power at any level of government shall not use its official position for obtaining unfair electoral advantage for itself or for any other Party.

Neutrality of Public Offices, Assets and Facilities

34. The Parties, especially those in power, shall ensure that no public funds, means of transport, vehicles, government offices or facilities and authorities shall be used for the benefit or advantage of any Party or candidate to the exclusion of other candidates.

Management of Public Information

35. Whilst Government ministers and other officials are not expected to freeze necessary activities during the election period, they must manage Government business and the communication of official information in such a manner as to avoid obtaining unfair electoral advantage for the Party in power or any other Party.
36. Government ministers and officials shall exercise particular restraint with respect to announcing and making financial grants and opening public projects.

Prohibited Activities

37. The following activities are prohibited during the election period:
 - (a) Government officials shall not combine official activities with election campaigning and shall not make use of official facilities or personnel during the campaign.

- (b) Government transport including official aircraft, vehicles, and personnel shall not be used in support of the campaign of any Party.
- (c) Public places and facilities shall be available to all the Parties and candidates on the same terms and conditions on which they are used by the Party in power.
- (d) Government accommodation shall be made available to all the Parties and candidates in a fair manner, but no Party or candidate shall use or be allowed to use such accommodation as a campaign office or for holding any public meeting for the purposes of campaigning.
- (e) During the election campaign, Ministers and other authorities may not make any ad-hoc appointments in Government or public administration which may have the effect of influencing the voters in favour of the party in power.
- (f) Government Ministers shall not enter any polling station or place of counting except in their capacity as candidates, voters or authorised agents.
- (g) Security Agencies shall not engage in political activities and shall not be partisan.
- (h) Security Agencies shall not intimidate or harass any party candidates, their agents, members or supporters or otherwise obstruct their activities.

PART VII

Respect for the Electoral Process

- 38. The Parties shall cooperate fully with the NEC, its committees, elections officers and other officials in the discharge of their duties under the Electoral Laws or in connection with the electoral process.

Preventing Electoral Offences

39. The Parties, their officers, candidates and supporters shall refrain from, and take all necessary steps to prevent, the commission of electoral offences, such as; bribery and other acts of corruption; impersonation of officials; canvassing within restricted zones of polling stations; and, interfering with the work of polling officers or election observers.
40. The Parties shall not procure votes by occupation of polling stations or through other illegal activities in the polling stations.
41. The Parties shall not disturb the process of casting or counting of votes, or falsely assert to voters that their votes will not be secret.

Permissible Activities at Polling Sites

42. Political parties and candidates may facilitate the transportation of their supporters or voters to polling stations, and may conduct, in places adjacent to polling centres, rehearsals for voters, candidates and party agents on election and polling cycles, including vote counting.

Limitations on Election Expenditure

43. Election expenditure by the Parties shall not exceed the ceiling set by the NEC, and shall be confined to expenses outlined in the National Elections Act of 2008.

Observing Time limit for Campaigning

44. Candidates and parties shall strictly observe the time limit officially defined for the campaign period.

Acceptance of final results

45. Political parties and candidates shall accept the official, final results of the elections duly certified by the NEC or declared by the specified court.

PART VIII

Oversight and Complaints Mechanisms

Establishment of Political Parties Councils

46. The Parties shall ensure that the Political Parties Councils, provided for under Annex 1, are fully operational during the elections. The relevant Parties shall appoint their representatives to the PPCs promptly.

Procedures for Complaints

47. The Parties shall follow peaceful means for resolving complaints regarding the election process.
48. The provisions of Annex 1 of this Code shall govern complaints arising from the application of this Code, and shall be additional to the procedures established under the National Elections Act and by the NEC.

Duty to Report and Deal Promptly with Violations

49. The Parties shall report to the relevant body breaches of the Electoral Laws and of this code, promptly, and shall cooperate with any investigations and due process of the law that may follow.
50. The Parties shall ensure that any complaint that they may have on the organisation of the polling, its places, voting hours, actual polling or sorting out and declaration of results is brought promptly to the attention of observers and polling officers appointed by the NEC.
51. The NEC shall give due and prompt consideration to any complaints, objections or allegations that it might receive regarding the conduct of the election.

Abuse of Complaints Procedures

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

Cooperation with Elections Observers and Monitors

53. Political parties and candidates shall cooperate with accredited local and international observers and monitors in carrying out their duties in accordance with the Electoral Laws and international standards.

Annex 1

Oversight and Complaints Mechanism for the Electoral Code of Conduct for Sudan

Subject to the National Elections Act of 2008 and in order to ensure fair and expedited adjudication of complaints, the signatories to this Code of Conduct agree to implement and abide by the following complaints procedures and mechanisms, which shall complement the procedures provided under the National Elections Act:

The Establishment of Political Parties Councils

1. Contesting political parties shall establish Political Parties Councils at national, regional, and state levels, which shall function as dispute resolution mechanisms to deal with violations of this Code of Conduct in order to promote free and fair democratic processes.

Structure of Political Party Councils

2. Political Parties Councils shall be structured, so as to be readily accessible to the Parties and to voters, and as follows:
 - (a) Each PPC shall be comprised of representatives of the political parties or of independent candidates contesting in the elections at the level at which the Council is formed (National, Southern Sudan and in each State) and such other independent members as agreed to by the Parties;
 - (b) Political parties or independent candidates not contesting in the elections at the level at which the PPC is formed, may not be represented on the Council;
 - (c) The number of members of each PPC shall be determined by the Parties contesting at the appropriate level;
 - (d) Members of PPCs may not be contestants of elections at the level at which the PPC is established;
 - (e) Only political parties and independent candidates that are signatories to this Code of Conduct or subscribe to it may become members of a PPC;

- (f) Chairpersons of PPCs shall be independent;
- (g) PPCs at all levels shall have institutional autonomy and each PPC shall determine the rules, regulations and procedures for its council meetings and processes.

Roles and Responsibilities of Political Parties Councils

3. PPCs shall ensure that all political parties educate their members and supporters about this Code of Conduct and the electoral laws, and that this Code of Conduct is made available publicly.
4. PPCs shall serve as a forum for dialogue and dispute resolution on matters relating to the elections process and implementation of this Code of Conduct.
5. During campaigns and elections, the PPCs shall act as promoters, custodians and implementers of this Code of Conduct.
6. PPCs shall maintain a full record of all matters they handle, including information on inquiries, investigations, deliberations and decisions which may then be presented, if necessary, to the National Elections Commission, for any further process or for their records.
7. In carrying out its activities, and in particular, when acting on a complaint or infringement, the PPC shall, as practicable, liaise with the NEC in order to prevent duplication of efforts and to expedite the resolution of the issue.
8. PPCs shall make public all decisions taken on violations to this Code of Conduct through public notices and other public media platforms if deemed necessary.

Complaints Procedures

9. Any registered voter or representative of a Party or an independent candidate, who believes that this Code of Conduct has been violated, may submit a complaint to the relevant PPC.
10. When a complaint is made to a PPC, a Complaints Committee, accountable to that PPC, shall be formed as follows:

- (a) The Complaints Committee shall be formed at the level relevant to the subject matter of the complaint, and shall investigate and attempt to resolve the issue and shall in any event, make a report to the PPC;
 - (b) The Committee shall consist of the following: a representative of the political party or the independent candidate who lodged the complaint or the nominee of an independent complainant; a representative of the political party or independent candidate against whom the complaint is made; and, a neutral third party agreed to by both parties.
11. The Complaints Committee shall investigate all complaints promptly and impartially and shall report all inquiry processes, evidence, mediation and resolution processes and outcomes to the PPC fully.
 12. The PPC shall adopt a set timescale for the resolution of each complaint it receives and the Complaints Committee shall endeavour to complete its work within that timescale.
 13. Complaints Committees may not publish any information relating to the complaint.
 14. The Complaints Committee shall attempt to resolve complaints amicably, through mediation and dialogue.
 15. If a complaint cannot be resolved by a Complaints Committee, it shall make a report of its actions and refer the matter to the PPC which may deliberate on the issue; either on the basis of the report presented by the Complaints Committee, or by carrying out additional investigations. The PPC may also carry out fresh investigations.
 16. The PPC shall provide an appropriate solution to each complaint it receives and shall publish the outcome.
 17. The PPC shall make its decisions by consensus. Where consensus cannot be reached, the matter shall be referred to the National Elections Commission.

Establishment of Specialised Committees

18. The Parties or a PPC may establish and adopt rules and procedures for Specialised Committees to deal with specific issues of importance. Specialised Committees shall operate under PPCs and any rules adopted pursuant to this Paragraph shall be deemed to be a part of this Code of Conduct.

Cooperation with Political Parties Councils and Committees

19. The Parties, their candidates, officers and supporters shall cooperate fully with the PPC and shall follow any rules and regulations issued by the PPC and abide by any decisions taken by the PPC or any of its Committees.

Powers of Political Parties Councils

20. A PPC may take the following measures to deal with a matter:
- (a) Order a party that has contravened the Code of Conduct to correct its mistakes including, if necessary, a public apology;
 - (b) Publicise the name of the party violating the Code of Conduct, or the Electoral Laws and make known its specific infringements, through public notices, radio, television or other means of communication;
 - (c) Refer the matter to the National Elections Commission for further action.

Monitoring of the Code

21. The African Union shall promote mechanisms for monitoring the implementation of this code.