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REPORT OF THE AFRICAN UNION SECOND PRE-ELECTION ASSESSMENT
MISSION TO THE SUDAN

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I. INTRODUCTION

1. As a follow-up to the African Union's on-going initiative of helping to end decades of conflict in The Sudan and transform the state into a peaceful and stable haven in a democratic setting, a second pre-election assessment Mission was dispatched to the Sudan between 19 and 24 January, 2010 as a further demonstrable proof of AU's political commitment to peace in the country.
2. The assessment team was led by the AU Commissioner for Political Affairs reinforced by sitting Permanent Representatives accredited to the PRC Sub-Committee on Refugees, Returnees and Internally Displaced Persons.
3. The following are members of the second assessment team:
 1. H. E. (Mrs) Julia Dolly Joiner, AU Commissioner for Political Affairs;
 2. Rtd Justice Lewis M. Makame, Chairperson, Tanzania National Commission;
 3. H.E. Andrew G. Bangali, Permanent Representative of the Republic of Sierra Leone to the AU;
 4. Dr. Fonkam Samuel Azu'u, Chairperson, Cameroon Electoral Commission;
 5. Amb. B. A. Adeyemi, Retired Nigerian Ambassador, Consultant/ Peace Building and Conflict Management/ Civil Society;
 6. Mr. Pola Kimena, Deputy Permanent Representative of Zambia to the AU;
 7. Mr. Guy Cyrille Tapoko, Political Affairs Officer in charge of elections;
 8. Ms. Haja Kamara, Political Affairs Officer in charge of humanitarians affairs;
 9. Mr. Alhadji Chernoo Ceesay- Special Assistant to the commissioner for Political Affairs.
4. The meetings/consultations based on a comprehensive list of stakeholders were being held in Khartoum, in Juba and Darfur for three days.

II. CONTACTS AND MEETINGS

i. The National Election Commission (NEC)

5. The team prudently chose the office of the National Electoral Commission (NEC) as its first port of call. Mrs. Julia Dolly Joiner briefly reiterated the purpose of the Mission, adding that the AU would like to avail itself of an update on NEC's activities since the visit of the first assessment team.

6. H.E. Abel Alier, the NEC Chairperson, in his response informed the group that the visit had come at a critical stage of the Sudanese election process. He disclosed that voter registration had been completed, adding that NEC was presently engaged at looking at complaints from aggrieved persons over the exercise. The next stage in the electoral calendar, H.E. Alier further disclosed, is the nomination of aspirants for the political officers from the President at the national level, Governorships of the states right up to the contest for seats in the States Assemblies. 12 January, 2010 has been fixed as commencement date for this exercise which should end by 23 January. NEC envisages that complaints would come from the contending political parties. Such complaints, Mr Alier opined, would have to be processed, a factor which could mean that the nomination segment might drag on until February, 2010. Thereafter, campaigns would follow.

7. The team was also told that independent candidates would be permitted to run for offices and that all aspirants would be guaranteed even-handed access to the media and television, regardless of their political affiliations. NEC further assured that election observation would be permitted in accordance with the Election Act and that Sudan would welcome observer missions from its international partners and institutions such as the European Union, the National Democratic Institute, the Carter Center, to name a few. Mr Alier expressed the hope that the African union would also dispatch an observer mission. He added that NEC was presently processing applications from local NGO's provided they adhere to what he termed as international code of conduct. So far, the mission was informed, requests to send missions had been received from Egypt, China and Japan.

8. Sudanese in the diaspora would be permitted to participate in the election. He estimates that some 100,000 in this category would do so, the majority of whom were expected from Saudi Arabia.

9. The budget for the election was pegged at USD 315 million by NEC. While the Sudanese Government would provide 57% of that amount, Khartoum's international partners would make up the short fall of 43%, in the form of logistics, electoral materials, equipment and training managers.

10. In a subsequent meeting with concerned officers from the US Embassy on the subject of election budget and procurement, however, the team was struck by the fact that after months of pressure from NEC's external partners, it is yet to present a polling plan, a stark reminder as shown in the first assessment report, that NEC remains implacably glued to its policy of sovereign ownership of the election process. NEC presently assumed that setting up 12,000 polling locations would fulfill the horrendous task of polling on Election Day. A more realistic assessment would venture that no fewer than 21,000 would be needed to perform the same task. That is not all, NEC seems set to opt for large ballot boxes that would occupy a lot of space and consequently hamper transportation as against smaller and compact boxes that would more efficiently perform the same task.

11. Above all, the Assessment Team was bluntly informed that NEC was not prepared to conduct its business in a transparent manner. NEC would not permit an audit of its budget, not to mention even releasing a break-down of the disbursement of Government contributions to its budget.

12. On the critical issue of opening up the political space to allow for free and unimpeded activities by political parties, NEC informed the assessment team that it was committed to this ideal and drew attention to last October's Presidential decree in this direction. Yet journalists could not but grimly note the President's recent ominous warning that press freedom did not amount to the absence of a redline beyond which journalists could only tread at their peril. That redline is yet to be defined but few journalists, if any, are bold enough to make a test of this.

13. Just shortly before the arrival of the Assessment Team in the Sudanese capital, the SPLM presidential candidate was said to have obtained a permit to hold a rally in Khartoum but is was held under a heavy security cloud, undercutting the freedom of assembly which the gathering was supposed to enjoy.

ii. **The United Nations Mission in the Sudan (UNMIS)**

14. When the team met with officers responsible for election support within UNMIS, the team was given the impression that the run-up to the election seemed under control in spite of some troubling challenges in the way. The main UNMIS

contention was that the success of the phase of the voter registration was sufficiently indicative that while it may not be prudent to underrate technical problems, any lingering obstacles on Election Day were not completely insurmountable.

15. However, the Human Rights Section of UNMIS painted a rather bleak picture. That section quickly drew the Team's attention to some danger signals on the way right up to the election itself. It cited the Criminal Procedure Code which the ruling party has used time and again to thwart legitimate political activities by the Opposition. The Human Rights Officer informed the assessment team that both the Judiciary and the Police were openly partisan on the side of the ruling party. Regrettably, the SPLM appeared to be doing the same thing in Southern Sudan against its political adversaries. At the time of our meeting, the Human Rights Officer claimed there were at least 104 known cases of gross violation of Human rights, further constricting the political space to the detriment of a free and fair poll. The team was also informed that the Constitutional Court was on record to have handed down a decision to the effect that press censorship was legal, virtually corroborating President Bashir's earlier remark that a redline indeed exists in the operational activities of journalists beyond which they could only tread at their own peril. NGO accreditation even during the voter registration was restricted, a dismal signal indicating that independent NGO's are unlikely to be granted the requisite political space to operate.

iii. Meeting with the National Congress Party (NCP)

16. The Head of the Political Relations Section of the NCP gave a glowing report of the on-going preparations for the election. He however reminded the team that elections are nothing more than the first step in the long road to democracy. He expressed the hope that African States would learn from the historic event currently taking place in the country.

17. When asked how the NCP was handling the lingering disagreement over the census figures, Professor Ghandour informed the Team that the ruling party had offered some 25 seats to SPLM in the up-coming elections, and on the referendum issue, the NCP has scaled down to 60% against 75% for the turn-out on the part of eligible voters, provided the decision is backed by 51% of those voting on the matter.

18. In Juba, the Assessment Team sought the views of the SPLM on this gesture only to discover that the NCP had a built-in proviso, namely that 11 of the

25 seats offered would have to be reserved for political parties that failed to win any seats in the South. It was an indirect way of reserving those seats for the NCP which is not expected to win any seats in the South in order to further consolidate its expected majority nation-wide.

iv. **Meetings in Juba**

19. The meetings in Juba, besides the issue of the offer of additional seats allocated to SPLM as discussed above, also helped to further expose the intricacies of the up-coming election.

20. The Southern Sudan Minister of Cabinet Affairs acknowledged that formidable challenges littered the path to a successful poll. He mentioned the tremendous problem of managing 12 ballots in a troubling environment in which most voters were illiterate. He also mentioned the needless delays encountered in passing all enabling legislation to ensure a free and fair election which had resulted in avoidable distortion of the time-lines set for the implementation of key components of the CPA.

21. The Speaker of the South Sudan Legislative Assembly Hon. Lt. Gen Wannii Igga was even more pessimistic of the outcome of the current transition process under the CPA. He cited the prevailing stalemate in implementing the ABYEI PROTOCOL, sequel to acceptance by both parties-the NCP and the SPLM – of the ruling handed down by the International Court of Justice in The Hague. General Igga stated emphatically that demarcation terms sent to delineate the border were twice chased away by Sudanese Government Security Agencies. Shelving a crucial matter as demarcating the authentic lines on the border separating the south and the north Sudan will be tantamount to sowing the seed of serious conflict in the post referendum period in the event the South opts for full independence.

22. The Speaker also complained of lack of transparency in the sharing of revenue from oil receipts, adding that the south was short changed in the remittances to the South from Khartoum. Even when agreement was in force in the oil wells located in Abyei under which the South Sudan was to receive 42%, the expected revenues were never released. In sum, General Igga asserted before the Team that in the prevailing insincerity in the implementation of the CPA, it was becoming increasingly difficult for the South to believe it has any viable future even in a future united Sudan.

23. On the elections proper the Speaker listed Security laws that were enacted during the war, arguing that they would now need to be repealed to expand the political space in furtherance of credible elections. He however assured the visiting Team that the SPLM was committed to participation in the polls, adding that SPLM has even fielded a candidate for the post of president.

24. The Assessment Team left Juba convinced that the SPLM would not compromise on the referendum issue as it pertains to the date fixed for it in the CPA.

25. Back in Khartoum, the Assessment Team met members of the US Mission responsible for the elections. The Team was informed that NEC was envisaging the construction of 12,000 polling centers, as against a realistic estimate of 21,000, and opting for big ballot boxes as against compact smaller ones that allow for efficient handling and transportation. Also the electoral body is resisting any advice on the ground that it breached its sovereign ownership of the process. The budget, we were again told, was not transparent. NEC would neither disclose in a coherent manner the funds it had received from the coffers of the Government nor tabulate its disbursement. On the voters list, NEC has resisted any audit. Sadiq EI-Mahdi, the UMMA party leader, corroborated this allegation, adding that NEC would not even permit a random audit particularly in the registration of the members of the Sudanese armed forces. The usual defensive posture from NEC was that such issues were an internal matter; again a thrown-back to its unyielding sovereign ownership of the entire electoral process. In sum, the US has pledged USD 95 million to the election but that is inclusive of disbursement to the Carter Center, the National Democratic Institute and domestic observation of the process.

26. In his own briefing to the Assessment Team, the European Union representative stated that EU was a major contributor to the basket fund being managed by UNDP. While conceding that the voter registration may have been successfully concluded, the EU Ambassador emphasized that there were huge gaps in certain areas particularly in Darfur where a larger segment may have been disenfranchised.

27. The EU envoy reiterated European Union's commitment to send an observer mission by mid February 2010 with presence in all states in the country. He observed that poor infrastructures particularly in the South continue to pose a serious challenge to the process, adding that the Code of Conduct imposed by Khartoum, on the observer missions did not confirm with international standards. Khartoum, he contended, had also used the issuing of visas to thwart the

observation process as, for example, when visas were unduly delayed or granted for such limited periods as to make observation neither viable nor beneficial.

v. Meetings in Darfur

28. The Assessment Mission on arrival in Darfur called first on the Governor at El Fasher. He asserted that criminality throughout Darfur was now at zero level; voter registration almost 90% coverage, but acknowledged that North Darfur remained unstable. He stated that 567 persons have picked nomination forms for various political offices.

29. However, at the IDP camps, the Assessment Team got a different briefing. Camp leaders emphatically stated that elections for them were not a priority. They reminded the Team that Government's high-handedness and other acts of brutality had turned them into IDPs and far away from their ancestral homes. They alleged that their villages were still targeted by Sudanese war planes and most of their people held in detention centers. Under a state of emergency with its plethora of draconian laws still in force, Camp leaders would rather opt for security and development. On the voter registration exercise itself, many contended, that the exercise was largely ignored, adding that the NEC Chairman, H.E Abel Alier was bluntly informed on his last trip to Darfur that the election was of no interest to them. They also alleged that migrants were brought in from neighboring States, especially Chad, Mali and Niger to register as voters in support of the ruling party.

30. At the High State Election Committee Office, the Chairman, Mr Mahamane gave a glowing picture of the registration exercise: 700,000 voters; 571 candidates have picked up the nomination forms; 14 political parties were vying for various offices; and 2000 police personnel already trained to provide security.

31. At UNAMID office, however the Assessment Team was informed that the boycott of the process by non-signatories to the DPA signed in Abuja Nigeria had a negative impact on the entire exercise. In the team's perception, by and large, the pronouncements of officials of the State High Committee were suggestive of their partisanship on the side of the ruling party. Indeed UNAMID conceded that challenges persist in the area of voter education, logistics, to name a few.

vi. **Meetings with UMMA Party Officials**

32. The leader of UMMA party gave a comprehensive assessment of the election preparation process before the Assessment Team. He cited the challenges as already highlighted in this report: lack of adequate voter education; constriction of the political space without which credible elections were hardly feasible; lack of an audit of the voter registrations; logistics etc. He emphasized the prevailing time constraint which has choked off proper attention in dealing with some outstanding political problems namely; the demarcation of the border between North and South; Darfur; etc. He drew attention to the looming danger of re-enacting the Kenya or Zimbabwe post election scenario on in The Sudan if some of these issues were left to fester unattended. He suggested a postponement of the election to November, 2010 to allow time to resolve these issues, adding that the referendum date need not be changed.

33. The challenge however, is what guarantees that these issues would benefit from postponement. If the three earlier years were dissipated on the same issues without any result, would it be plausible to now resolve them in six months? Moreover, it would mount to political suicide in the eyes of SPLM to concede a postponement of the elections which must inevitably force a postponement of the referendum.

III. **EXECUTIVE SUMMARY OF OBSRVATIN AND RECOMMENDATIONS**

i. **Observations**

34. Since September 2009 when the Pre-assessment Mission visited The Sudan to ascertain the level of preparedness for the up- coming elections, there has been a mixed bag of developments that are worth noting.

❖ **Voter Registration**

35. The voter registration exercise commenced on schedule on November 1, 2009 and with some wise adjustments including extension of time allotted to the exercise, it could be assumed that it was successfully concluded. Voter turn-out was encouraging particularly in Southern Sudan where the SPLM apparently utilized the exercise to debunk the low census figures allotted to the South by mobilizing its supporters. Voter education become critical, thanks largely to international agencies, the donor community and the NGOs which accounted for

the modest success achieved. This is not to suggest all is now well. NEC would not permit any audit of the voter registration or even suggestion all is now well. NEC would not permit any audit of the voter registration or even its budget as it considers these demands as interference bordering on unacceptable breaches of its sovereign ownership of the entire process. The recalcitrance on the budget is already having a negative impact on the flow of external funding to the election itself. Donors have a right to know how funds received have been disbursed in an itemized manner in accordance with known norms of fiscal probity and accountability,

❖ Audit of Electoral Register

36. The auditing of the electoral register is desirable if not even imperative to enhance transparency in furtherance of credible elections. By resisting such demands, NEC is already inadvertently doing more harm to the process, thereby throwing the entire exercise in needless jeopardy. The net effect, for now, is to further compound an expanding groundswell of mutual distrust and suspicion among the political parties, placing unnecessary peril on an exercise that has taken years to nurture in the overall national interest.

❖ Darfur

37. Darfur sticks out as a sore thumb and matters have not been helped by the State High Committees in the area, displaying an upbeat of optimism that fly in the face of hard facts as perceived on the ground by the Assessment Team. Moreover, Darfur is the only region under emergency rule and, from all indications; it would appear no credible election could be held under such draconian conditions.

38. The Mbeki Mission is working for a possible political settlement but the time constraint remains a grave disability in reaching a political settlement before Election Day. NEC may permit what could pass as an election *per se* but it is predictable that it will be marred by a significant low turn-out or violence, taking into account the negative postures of the non-signatories to the DPA signed in May 2006 in Abuja to the election process in Darfur.

ii. Recommendations

39. It would appear, in the perception of the Assessment Team, that this election would be permitted to go ahead in April, 2010 as scheduled. All stakeholders have expressed the desire that the AU would join the observer

missions in observing and monitoring the polls. Taking into account the complexity of the Sudanese electoral process against the background of prevailing challenges already highlighted in this report, it is strongly recommended that AU dispatch a much larger corps of observers (The Sudan's huge size demands nothings less) and that the team arrives at least two or three weeks before Election Day.

40. It is equally recommended that the Liaison Office in Khartoum and Juba be numerically strengthened, and a small team deployed to Darfur.

41. In the meantime, it is strongly recommended that political pressure be brought to bear on the entire Sudanese political leadership, emphasizing the need to conduct a transparent poll that would pave the way to sustainable growth and development in a new and vibrant democracy in the country.

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