



## **SUDAN**

### **FINAL REPORT**

#### **Southern Sudan Referendum 9-15 January 2011**

#### **EUROPEAN UNION ELECTION OBSERVATION MISSION**

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## **I. EXECUTIVE SUMMARY**

1. On the invitation of the Southern Sudan Referendum Commission and the Government of the Republic of The Sudan, the European Union Election Observation Mission (EU EOM) was present in Sudan from 12<sup>th</sup> December 2010 to 30<sup>th</sup> January, 2011 in order to observe the 9<sup>th</sup>– 15<sup>th</sup> January Referendum on self-determination for Southern Sudan, envisaged in the 2005 Comprehensive Peace Agreement (CPA). The mission was led by Ms. Véronique de Keyser, Member of the European Parliament, who also led the EU EOM that observed the April 2010 general elections in Sudan. The EU EOM for the Southern Sudan Referendum comprised 104 accredited observers at various stages of the process from the 27 EU member states, as well as Switzerland, Norway and Canada. They were joined on polling days by a delegation of six Members of the European Parliament, headed by Ms. Mariya Nedelcheva. The Mission operated in accordance with the EU Code of Conduct for Election Observers, the Declaration of Principles for International Election Observation, and the Code of Conduct for International Election Observers.
2. The implementation of the Southern Sudan Referendum fulfilled a major requirement of the 2005 Comprehensive Peace Agreement that ended the 22-year-second Sudanese civil war. That the Referendum took place on time and in a calm, peaceful and orderly environment, was a remarkable operational and political achievement, particularly given the delays in passing the Southern Sudan Referendum Act (the Act) and the establishment of the Southern Sudan Referendum Commission (SSRC) and its secretariat, as well as the Juba-based Southern Sudan Referendum Bureau (SSRB).
3. The EOM concludes that the Referendum was a credible process that accurately reflects the overwhelming desire of Southern Sudanese voters for secession. This conclusion is reached in spite of four main shortcomings. Firstly, the non-pluralistic political environment that resulted in the sometimes intimidatory tactics used by the ruling SPLM in encouraging registered voters to cast their ballot. Secondly, the approval of the results of just less than 10 per cent of Referendum Centres that showed voter turnout in excess of 100 per cent without investigation by SSRB. Thirdly, the bypassing of certain elements of the Referendum's legal framework out of a pragmatic desire to meet the 9<sup>th</sup> January, 2011

deadline for the holding of the Referendum set by the Act and the CPA, and fourthly, a lack of a thorough appeals mechanism that would allow natural or legal persons the possibility to challenge elements of the Referendum administration bodies' preparation of the Referendum.

4. The pre-Referendum political environment was heavily influenced by the Government of National Unity (GNU) partners' (the National Congress Party and the Sudan Peoples' Liberation Movement) discussion of post-Referendum issues in the event of the secession of Southern Sudan, on which little substantive progress was made in advance of the Referendum. These issues included the final demarcation of the north-south border, how responsibilities for Sudan's foreign debt would be divided, which currency the new Southern Sudanese state would use, and how revenues for bringing Southern Sudanese oil to the market via the refineries, pipelines and port of the north of Sudan would be calculated and transferred. Another issue considered was the thorny issue of citizenship. Although the CPA parties made commitments with regards to the rights of both Sudanese from north and south to live, travel and work in either state in the event of Southern Sudanese voters choosing secession, the uncertainty felt by Southern Sudanese in the northern states, in particular, as to their post-Referendum status, contributed to the continuing exodus of an estimated 150,000 Southern Sudanese from north to south in the months immediately preceding the Referendum.
5. The GNU partners also failed to agree terms on implementing the referendum for Abyei, due to be held simultaneously with the Southern Sudan Referendum, which would allow the people of Abyei to decide whether Abyei would remain with the northern Sudanese states, or join the independent Southern Sudanese state, in the event of Southern Sudanese secession. This did not meet commitments made in the CPA's Abyei Protocol and the 2009 Abyei Area Referendum Act, and is partially responsible for subsequent violence and instability in the Abyei region.
6. Certain elements of the legal framework for the Referendum (in particular the stipulation in the Act that the Final Referendum Register be finalised three months prior to polling day) were not respected. The dominant pragmatic view was that the CPA had mandated that the Referendum must be held on 9<sup>th</sup> January, 2011, and thus other legal stipulations were rendered subservient. No legal anomalies in the

implementation of the Referendum process, however, appear to cast doubt on the expected results.

7. The Referendum administration bodies were generally efficient, organised and well-prepared. Despite the logistical challenges and the late appointment of all Referendum officials, the Referendum bodies managed the preparations for the polling days effectively. The SSRC/B administered the Referendum process in a largely transparent, collegial and timely manner, especially considering the challenging circumstances and shortened deadlines.
8. In Southern Sudan in particular, however, the SSRB, at all levels, was hugely reliant on the technical, operational and logistical assistance provided by the United Nations Integrated Referendum and Electoral Division (UNIRED), without whom the Referendum would not have taken place on time, or in the efficient manner that it did. The USAID-funded International Foundation for Electoral Systems (IFES) also provided vital technical assistance.
9. Southern Sudanese voters, for the most part, participated in a determined fashion in extremely high numbers, in a general climate of celebration. In the north, however, the general atmosphere was much more subdued. Movement of Southern Sudanese citizens of voting age from the northern states to Southern Sudan took place before, during and after voter registration, thereby significantly reducing the numbers both of registered voters (particularly women) and of citizens turning up to vote in the northern states.
10. The Referendum administration bodies' information-sharing with external stakeholders (including voters) was occasionally lacking, such as with regards to the timely publication of Regulations and lists of Referendum Centres. Effective communication between the different levels of the Referendum administration, particularly in terms of consistency in the instructions provided to the lower-level bodies, was sometimes erratic.
11. The voter information campaign was designed mainly as a mass media effort, complemented by door-to-door initiatives carried out by local civil society organisations. Directed at a population fluent either in English or standard Arabic, the media campaign's effectiveness was

assessed by EU observers as somewhat deficient. This influenced the low knowledge of basic voting procedures among voters, north and south (in 52 per cent of all Referendum Centres observed by the EU EOM).

12. Voter registration was carried out effectively and according to procedures, with approximately 86 per cent of the estimated number of eligible voters registering. In Southern Sudan, the number of voters registered was 80 per cent of the number that registered for the 2010 elections. However, the 24-day registration period was significantly (35 per cent) shorter than that which preceded the April 2010 elections. SSRC announced on 8<sup>th</sup> January that 3,932,588 voters were registered for the Referendum, 95.5 per cent of whom were registered in Southern Sudan. Some 117,000 voters registered in the northern states, with a further 62,000 registered in eight out of country locations.
13. The campaign was conducted peacefully in Southern Sudan, albeit where the SPLM administration's heavy-handed treatment of some groups (including NCP members), believed to be unsupportive of the secessionist cause, spilled over into violence in isolated cases. Mindful of the counter-productive 60 per cent threshold stipulated in the Act required to validate the Referendum, SPLM appeared to aim for a 100 per cent turnout, and thus the campaign climate focused on maximising voter participation. The use of clear intimidation tactics was observed on occasion, and contributed to the eventual overwhelming turnout. On top of this, an almost complete absence of pro-unity campaigning created an environment where debate on the consequences of secession or the continued unity of Sudan was drowned out. Campaigning in the northern states, conversely, focusing on pro-unity messages, was much more subdued.
14. Sizeable international observation missions were deployed by, among others, the Carter Center, the African Union, the Intergovernmental Authority on Development, and the League of Arab States. Separately, the United Nations Secretary General's Panel on the Referenda in Sudan (UNSG-P), consisting of three high-level personalities from Tanzania, Portugal and Nepal carried out a "good offices" international monitoring role as envisaged in the Act. Domestic observers deployed in significant numbers for the Referendum and were a reassuring presence throughout the process, with an attendance rate of nearly 96 per cent of all Referendum Centres (RCs) observed.

15. EU observers made 1,267 separate observations across Sudan, in a total of approximately 800 Referendum Centres, representing more than 28 per cent of all RCs. Throughout the country, procedures were much better implemented than during the April 2010 Sudan elections, reflecting, in particular, a significant improvement in RC staff training. Voting was well managed in 76 per cent of RCs, and as poor in only three per cent. Referendum staff showed commitment, effectiveness and a good command of their role in an overwhelming majority of RCs observed.
16. The low level of public knowledge of polling procedures, however, caused many voters to ask Referendum Centre Chairpersons for detailed explanations on how to vote. This was done to an extent that cast a doubt on the secrecy of the vote in about eight per cent of cases observed. Paradoxically, and unfortunately, this was also likely a key reason for the unusually low numbers of invalid ballot papers recorded in this Referendum.
17. Closing, counting and the packing of material took place in a calm and undisturbed atmosphere. The EU EOM observed the aggregation of results at every level of the Referendum administration until the publication of Preliminary Results. EU observers positively assessed the aggregation of results at County Sub-Committees in Southern Sudan in 72 per cent of cases, while in the northern states it reached 93 per cent. Intake of sensitive material from the RCs was properly carried out in nearly 90 per cent of observed cases in the Southern County Sub-Committees and in all 100 per cent of the northern State Referendum Committees.
18. The final results announced by SSRC on 7<sup>th</sup> February showed a turnout of 97.58 per cent. Voters casting valid ballots chose for Southern Sudan's secession in 98.83 per cent of cases. Invalid and blank ballots represented just 0.36 per cent of total ballots cast, below international trends of at least one per cent for simple electoral process ballot papers.
19. SSRC/B only investigated the results from RCs where turnout exceed 105 per cent of the number of voters registered. All 27 such cases investigated uncovered errors in the data recorded by registration officials following voter registration, and electoral fraud was not

detected in any case. An additional 240 cases where turnout was between 100-105 per cent, however, were not investigated. The EU EOM believes not investigating such cases sets a bad precedent for electoral processes in both Sudan and the wider region.

20. There was a near general praise from domestic and international observer groups for the work of the SSRC and SSRB. The Chairperson of the Secretary-General's Panel on the Referenda in Sudan, former President of Tanzania, Mr. Benjamin Mkapa, reported "that the process so far has been conducted in a peaceful and transparent manner that allowed the people of Southern Sudan to express their will freely." The Carter Center similarly assessed it as "broadly consistent with international standards for democratic elections" and the "genuine expression of the will of the electorate", a conclusion shared by all other observer groups in Sudan.

## **II. INTRODUCTION**

The EU EOM for the Southern Sudan Referendum was deployed on 12<sup>th</sup> December, 2010 and formally launched on 20<sup>th</sup> December, 2010. Its headquarters were located in Juba, Southern Sudan, with a sub-office in Khartoum, the capital of Sudan and the seat of the Southern Sudan Referendum Commission. The mission deployed observers to all 10 states of Southern Sudan, as well as 8 of the 15 northern states of Sudan. The mission comprised 104 accredited observers at various stages of the process from the 27 EU member states, as well as Switzerland, Norway and Canada. They were joined on polling days by a delegation of six Members of the European Parliament, headed by Ms. Mariya Nedelcheva. The mission was led by Ms. Véronique de Keyser, Member of the European Parliament, who also led the EU EOM for the April 2010 general elections in Sudan. The Mission operated in accordance with the EU Code of Conduct for Election Observers, the Declaration of Principles for International Election Observation, and the Code of Conduct for International Election Observers.

Prior to the deployment of the EU EOM, an EU Voter Registration Assessment Mission was deployed, from 8<sup>th</sup> November to 12<sup>th</sup> December. The Voter Registration Assessment Mission consisted of three electoral experts and sixteen Long-Term Observers, deployed throughout the country, in six states of Southern Sudan as well as in two northern states. The Voter Registration

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Assessment Mission did not issue a preliminary statement of its findings. Its findings were instead incorporated into both the EU EOM's Preliminary Statement (17<sup>th</sup> January) and this Final Report.

### **III. POLITICAL BACKGROUND**

#### *Political context*

On 9<sup>th</sup> January, 2005, the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM)/Sudan People's Liberation Army (SPLA) signed the Comprehensive Peace Agreement (CPA), ending the second Sudanese civil war (1983-2005). The CPA brought the SPLM into a power-sharing agreement with the northern NCP-led government under the Presidency of Omar al-Bashir, which had gained power through a military coup in 1989. The CPA outlined a six-year Interim Period which began on 9<sup>th</sup> July, 2005. During this period, the two parties were to establish a new Government of National Unity and the southern Sudanese would obtain regional autonomy through the creation of the Government of Southern Sudan. It also called for wealth-sharing, power-sharing, and security arrangements between the two parties, including a permanent ceasefire and withdrawal of troops.

The CPA reaffirmed the principle of self-determination that had been agreed in the 1994 Intergovernmental Authority on Development-mediated Declaration of Principles, which sought to provide a foundation for a future peace in Sudan. The Machakos Protocol of the CPA provided for the explicit right of self-determination for the people of Southern Sudan, "through a Referendum to determine their future status...internationally monitored...organised jointly by the Government of Sudan and the SPLM/A, for the people of Southern Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession."<sup>1</sup> The Machakos Protocol specified that the Referendum would take place at the end of the interim period on 9<sup>th</sup> July, 2011, but the CPA's Implementation Modalities<sup>2</sup> required that voting take place six months before the end of the Interim Period, i.e. 9<sup>th</sup> January, 2011.<sup>3</sup>

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<sup>1</sup> Articles 1.3 and 2.5, Machakos Protocol, CPA.

<sup>2</sup> Section 1e, Implementation Modalities, CPA. This provision of the CPA was incorporated into the Interim National Constitution, in Article 222.

<sup>3</sup> The Chairman of the SSRC, Professor Mohamed Ibrahim Khalil, argued in letters to the Presidency in late 2010 that the poll could be postponed until July 2011, an argument repeated by Professor Khalil, in retrospect, at an SSRC press conference on 25 January, 2011.

Considerable delays in implementation of the CPA included the delayed national elections, originally due no later than July, 2009, but eventually held in April, 2010. This gave rise to great concern that the self-determination Referendum was itself in jeopardy of being delayed or not being held at all.<sup>4</sup> The respective consolidation of power by the NCP in the northern states and the SPLM in Southern Sudan allowed for both parties to continue at the forefront of determining the national political agenda, and subsequent post-election political negotiations between the CPA parties focused intensively on conducting the Referendum. Impediments such as the delayed passage of Referendum legislation (passed almost two years later than required), the late formation of the Southern Sudan Referendum Commission (SSRC) and the delayed release of government funding for the Referendum were all clearly tied to political impasses between the CPA parties. Nevertheless, the acceleration of preparations in the latter half of 2010 allowed the CPA's political commitment to a self-determination Referendum on 9<sup>th</sup> January to be upheld.

The same web of political disputes that endangered the Southern Sudan Referendum accounted for the failure to respect the commitments of the CPA's Abyei Protocol and the 2009 Abyei Area Referendum Act, which required a concurrent Referendum on the future status of the disputed territory of Abyei. Violence and instability that occurred in the Abyei Area during polling in the Southern Sudan Referendum has, as a primary factor, a continuing failure to resolve the final status of the territory.

General disrespect for many CPA provisions politicised movement towards achieving the self-determination process of the Referendum. Despite the CPA's call to make "unity attractive," the general dysfunction of the CPA's interim arrangements and continued disputes between the governments in Khartoum and Juba on numerous fundamental issues made unity an unlikely choice for most Southern Sudanese. After years of official neutrality on the question of Southern Sudan's secession, senior SPLM officials endorsed the separation of Southern Sudan and urged all Southerners to vote for secession.<sup>5</sup>

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<sup>4</sup> For more on background and political context prior to the elections please see the EU EOM's Final Report on the Executive and Legislative Elections, Sudan 2010.

<sup>5</sup> Anne Itto, deputy secretary-general of the SPLM, endorsed secession as the position of the SPLM's southern sector on December 11. Her call was followed by statements by President Salva Kiir Mayardit and other leading SPLM figures.

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While the NCP threatened on numerous occasions during the Interim Period to block the Referendum from proceeding and/or withhold recognition of the process, the declaration of President Omar al-Bashir on 31<sup>st</sup> December, 2010, to unconditionally accept the Referendum – even if the outcome was for secession – cleared any further political obstacles to endorsement of the result. President Bashir’s position was reiterated during his visit to Juba on 4<sup>th</sup> January, 2011. The subsequent acceptance of the Referendum results by the NCP and SPLM on 7<sup>th</sup> February (see Results section below) represents fulfilment of the commitments of the CPA parties to honour the free will of the people of Southern Sudan.

#### *Post-Referendum context*

Despite the fulfilment of the CPA obligation to the Southern Sudan Referendum, the pre-Referendum political environment was heavily influenced by the Government of National Unity partners’ discussion of post-Referendum issues in the event of the secession of Southern Sudan, on which little substantive progress was made in advance of the Referendum. Central to the discussions were on-going state obligations to ensure the security of the person, including the right to not be arbitrarily deprived of fundamental freedoms such as the freedom of movement, residence, and citizenship. Although the CPA parties made commitments with regards to the rights of both Sudanese from north and south to live, travel and work in either state in the event of Southern Sudanese secession, the uncertainty felt by Southern Sudanese in the northern states, in particular, as to their post-Referendum status, contributed to the continuing exodus of an estimated 150,000 Southern Sudanese from north to south in the months immediately preceding the Referendum. The continued migration of Southerners from the north (and a lesser number of northerners leaving the south) underlines obligations of both the Government of Sudan and the Government of Southern Sudan to ensure that the rights of all citizens are protected, regardless of their places of origin, ethnicity, religion, perceived affiliations, and irrespective of whether individuals participated in the Referendum or not.<sup>6</sup>

Other post-Referendum issues included the final demarcation of the north-south border, how responsibilities for Sudan’s foreign debt would be divided, in what manner Sudanese Pounds (SDG) would be redeemed in the event that the new Southern Sudanese state adopted a new currency, and how revenues

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<sup>6</sup> Latest figures suggest at least 140,000 persons have returned to Southern Sudan since October 31.

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for bringing Southern Sudanese oil to the market via the refineries, pipelines and port of the north of Sudan would be calculated and transferred.

#### **IV. LEGAL FRAMEWORK**

##### *Sudan's international electoral commitments*

International electoral commitments from legal texts such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, both of which Sudan has ratified,<sup>7</sup> include commitments that apply equally to referenda as to electoral processes. These include commitments to provide an accessible and transparent voter registration exercise, to ensure secrecy of the vote, to ensure equality among voters, to ensure transparency in counting and aggregation, and to make available an effective legal remedy. Additional regional electoral standards to which Sudan has committed itself include the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa, which sets out campaigning rights and the right to appeal to a judicial authority, which are also relevant to referenda.<sup>8</sup> Sudan's commitments for the Referendum were augmented by the fundamental freedoms of expression, association and assembly protected by the CPA, the Interim National Constitution (INC) and the Interim Constitution of Southern Sudan (ICSS). Sudan has also signed<sup>9</sup> the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

##### *National legal framework*

The specific national framework for the Referendum were the relevant sections of the CPA and the constitutional references to the Referendum, which incorporate all the fundamental human rights which are relevant to electoral processes into a Bill of Rights including the freedoms of expression and association, protection of personal liberty, and the right to vote, etc. Article 41 of the INC provides for universal suffrage and voters' rights.<sup>10</sup> The legislation that directly governed the Referendum was the Southern Sudan Referendum Act 2009 (the Act). The Act was augmented by various Regulations

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<sup>7</sup> Art. 27 of the Interim National Constitution incorporates the ICCPR and the ACHPR into national law.

<sup>8</sup> Adopted at Durban, South Africa on 8 July 2002 by the OAU AHG/Dec.1 (XXXVIII).

<sup>9</sup> On 30 June 2008.

<sup>10</sup> Art. 30 of the ICSS reflects the same rights.

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made thereunder by the SSRC. The Act committed all levels of government to ensuring the freedom to assemble and to express views on the Referendum.<sup>11</sup>

The Act mandated that the Referendum be held on 9<sup>th</sup> January, 2011, and be both internationally monitored and internationally observed. Under the CPA the Act was to be enacted by the start of 2008, the SSRC was to be established immediately after that enactment, and voter registration was to start 12 months before, and end at least 3 months before, the Referendum date.

The Act sets out a workable structure for the registration of voters and the later steps from polling through to final declaration, but its provisions were not always followed.<sup>12</sup> While the SSRC attempted to comply with the timetable in the Act, the time available did not allow for such compliance. Legal elements that were part of the careful balance of the Act were overlooked in order to comply with the greater imperative to have a credible Referendum on 9<sup>th</sup> January, 2011. Such understandable departures from the Act, included, most glaringly, the commitment in the CPA and the Act that the Final Referendum Register be published at least three months before the Referendum was not achieved.<sup>13</sup> The desired three month period was ultimately reduced to one day, with the publication of the Register on 8<sup>th</sup> January.<sup>14</sup> Another significant departure from the scheme of the Act was the decision not to establish any Referendum Centres for registration or polling in Abyei. Regardless of the fact that Abyei was to have a separate referendum on a different question,<sup>15</sup> there was no legal basis for depriving persons in Abyei, eligible under the Act to participate in the Southern Sudan Referendum, from the opportunity to register and vote.<sup>16</sup> A third departure included not respecting the statutory requirement that all Referendum staff be at least 40 years old.

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<sup>11</sup> Section 7 (b) and (c).

<sup>12</sup> So for example the 'corrections to corrections' procedure in S 30(3)(a) was not carried out

<sup>13</sup> This failure featured in two of the cases brought to the Constitutional Court in December 2010.

<sup>14</sup> The three-month period would allow for an audit of the register to take place, if deemed necessary, and to allow for campaigning based on the register.

<sup>15</sup> Chapter IV of CPA at 1.3 provides 'Simultaneously with the Referendum for Southern Sudan, the residents of Abyei will cast a separate ballot'. This is also mentioned in Art 183(3) of the INC. The CPA implementation modalities say the Southern Sudan Referendum was to be held in Southern Sudan and other locations to be determined by the Referendum Commission in accordance with the provisions of the Referendum Act. The Act contains no exclusion for persons resident in Abyei.

<sup>16</sup> It was reported that persons resident in Abyei travelled to adjacent areas to register and vote, but if they identified themselves as Abyei residents the official advice from the SSRC was to refuse to register them.

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Even though it was clear, once the SSRC was appointed so late, that the Final Referendum Register, in particular, could not be finalised within the legally-mandated timeframe, neither the National Assembly nor the Presidency addressed any of the legal problems by proposing amendments to the Act.

Nevertheless the various departures from the strict scheme of the Act do not, even when combined, diminish the credibility of the Referendum process and result.

### *Eligibility*

Eligibility for participation in the Referendum, i.e. to register to vote, was set out in Section 25 of the Act. The Act did not mandate that a person be a Sudanese citizen in order to register and vote, with eligibility to register and vote instead established via either a blood link or long-term residency. Eligible persons had to either be:

- Born to parents, either of whom belonged to any of the indigenous communities residing in Southern Sudan on or before 1<sup>st</sup> January, 1956, or whose ancestry was traceable to one of the ethnic communities in Southern Sudan, or;<sup>17</sup>
- Persons permanently residing, without interruption, or whose their parents or grandparents had been permanently residing, without interruption, in Southern Sudan since 1<sup>st</sup> January, 1956.

Registrants also had to be 18 years of age and be of sound mind.<sup>18</sup>

The residence period for the second criterion was too long to ensure that the ICCPR right to take part in the conduct of public affairs was respected.<sup>19</sup> Although the EU EOM did not observe cases of voters denied under this element of the Act, as a legal text it failed to respect the rights of persons, not qualifying under the blood link, to participate in this most important exercise of direct democracy affecting their future, who may have been long a part of

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<sup>17</sup> Sudan gained its independence from Britain on 1<sup>st</sup> January, 1956.

<sup>18</sup> The Act did not elaborate how one would establish whether a person was of unsound mind.

<sup>19</sup> See ICCPR General Comment No 25 at paragraph 11, 'If residence requirements apply to registration, they must be reasonable...' See also the discussion in the Guidelines on the Holding of Referendums from the Venice Commission of the Council of Europe which, although addressed to a European audience, recommends a residence period of as short as six months in respect of Referendums.

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the Southern Sudan community. Persons in this category would include naturalised foreigners.

## **V. COMPLAINTS AND APPEALS**

### *Complaints to the SSRC*

A significant shortcoming in the Act – which did not respect Sudan’s electoral commitment to provide an effective legal remedy – was the absence of any formal mechanism to air complaints about the actions of the SSRC in preparing the Referendum. Therefore important questions such as the location of RCs, the interpretation of the eligibility criteria, or the failure of the SSRC to set out a list of ethnic and indigenous communities eligible to participate, could not be addressed either through an administrative complaint system within the SSRC or by court challenge. Lists of grievances and complaints were in fact addressed to the SSRC by the NCP, and an attempt was made to address them, as for instance by removing Referendum officials below the required statutory age of 40. Ultimately some of these issues were included in applications to the Constitutional Court prior to the Referendum (see below).

### *Applications to the Constitutional Court*

In advance of the polling period much legal attention focused on cases brought to the Constitutional Court to challenge the Referendum process. On 30<sup>th</sup> November, 2010, the Court dismissed a petition brought by Khartoum lawyer Moiwa Khidr, asking for a five-year postponement of the Referendum on the basis that secession without having all future issues resolved, would be contrary to the INC.<sup>20</sup> The court responded that the Referendum was constitutionally mandated for January 2011 and that it had no jurisdiction over the CPA and the terms of the INC. The Court reached the same conclusion on 13<sup>th</sup> December in a case against the CPA taken by an Egyptian politician.<sup>21</sup>

Cases unresolved at the time of the Referendum included one that alleged a policy to deny registration to the Arab Selim tribe in Upper Nile State, apparently on the basis that it was not a Southern tribe as of 1956, and its

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<sup>20</sup> *Moiwa Khidr v Gov of Sudan*. Petition No 288/2010.

<sup>21</sup> *Mohamed Mahoud and others v Government of Sudan*, appeal no. 174/2010. This was the last case decided by the Court with a full quorum, due to the undeclared boycott of the Court by the two Southern Sudan judges started shortly thereafter.

nomadic movement to the south was not residence 'without interruption.'<sup>22</sup> The applicants addressed their concerns to the Constitutional Court rather than through the appeal mechanisms of the voter registration regulations, however, which prevented full consideration of the community's claim to be included in the register.

A second case<sup>23</sup> in this category focused on the inconsistencies between the timetable in the CPA, the constitutions and the Act, and the timetable being applied by the SSRC. It also complained of an alleged refusal to register persons from some tribes not recognised as Southern Sudanese. The applicants also sought a stop-order, requesting that the Referendum process be suspended, but the court refused and instead said it would deal with the case urgently. In its formal response to the case (29<sup>th</sup> December, 2010), the SSRC asserted that suffrage is an individual rather than an ethnic or tribal right,<sup>24</sup> that rejected persons must use the machinery of the Act rather than appealing to the Constitutional Court, and that the date of 9<sup>th</sup> January, 2011, could not be departed from since it was constitutionally mandated.<sup>25</sup>

A third case<sup>26</sup> highlighted the same timetable inconsistencies, argued that it is a requirement of the CPA and INC that the SSRC include international experts,<sup>27</sup> and argued that it was not constitutional to hold the Southern Sudan Referendum without holding the Abyei Referendum at the same time.

The court was frustrated in dealing with these cases by that fact that the two remaining judges from Southern Sudan were absent from the court from late December,<sup>28</sup> on a form of undeclared boycott, making it impossible for the court to form a quorum. On 30<sup>th</sup> January, 2011, lawyers for the applicants in one of the unresolved cases wrote to the Court (with copy to all Referendum observation missions) complaining that the action of one of the CPA parties in

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<sup>22</sup> Elsheikh Elnour & others v SSRC & others. Appeal No 202/2010. Reports suggest that this case has been dismissed but the order has not been made owing to the recent absence of the judges from Southern Sudan.

<sup>23</sup> Osman Droub and others v SSRC, appeal No 209/2010.

<sup>24</sup> Rejecting the argument that there was a policy not to register some tribes.

<sup>25</sup> As of 9 January that response has not been forwarded to the applicants for information or comment.

<sup>26</sup> Abdourasoul Elnour and others v SSRC and others, appeal No 226/2010.

<sup>27</sup> Para 2.10.1.5 of the Power Sharing Protocol says the draft law for the Referendum body from the National Constitutional Review Commission shall provide for it to 'include international experts'.

<sup>28</sup> If this absence was a plan to stall the work of the court it would reflect very badly on the independence of the judiciary of Southern Sudan.

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removing the judges it had nominated, was itself a breach of the CPA, since the CPA required that the Constitutional Court be in place for the purpose of constitutional protection, and the parties were in effect exercising a veto over its work. The lawyers asked the Court to order a delay of the announcement of the final referendum results (not eventually granted) until their case was dealt with.

## **VI. REFERENDUM ADMINISTRATION**

### *Structure and composition of the Referendum administration bodies*

The SSRC was established on 29<sup>th</sup> June, 2010. The nine Commissioners, appointed by the President of the Republic with the consent of the First Vice-President and with the approval of the members of the National Assembly, were sworn in on 6<sup>th</sup> July, 2010. Five of the Commissioners are from Southern Sudan and four from the northern states; the Chair and Deputy Chair are full-time members. Membership of the Commission expires at the end of the Interim Period.

The SSRC is a financially, administratively and technically independent body seated in Khartoum, responsible for overall policy-making and supervision of the Referendum.<sup>29</sup> The Southern Sudan Referendum Bureau (SSRB) in Juba operates under the overall direction of the SSRC;<sup>30</sup> the Chairperson of the SSRB is also the Deputy Chairperson of the SSRC. The SSRB is composed of five Members, appointed by the SSRC upon recommendation by the Chairperson of the SSRB, and is responsible for supervising the work of the Referendum management bodies in Southern Sudan.

The SSRC established, upon recommendation of the SSRB, 10 State High Committees (SHCs, one for each state) in Southern Sudan, composed of a Chairperson and four other Members. The SHCs were responsible for the formation, with the consent of the SSRB, of 79 Sub-Committees at county level and, upon recommendation by the County Sub-Committees, 2,638 Referendum Centres (RCs) within the counties. The number of RCs was arrived at by analysing data from the 2008 census and allocating on average one

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<sup>29</sup> The Act, Section 9.

<sup>30</sup> Section 14(3): "The Commission may delegate any of its powers to its chairperson/deputy chairperson or to the SSRB."

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centre for every expected 2,000 voters.<sup>31</sup> In the northern states, the SSRC formed 17 State Referendum Committees, three in Khartoum and one in each of the other fourteen states; no County Sub-Committees were formed in the northern states.

The Act left it to the discretion of the SSRC to determine whether Referendum Centres should be static or mobile;<sup>32</sup> the SSRC Voter Registration Regulations 2010 (Art. 14) specified that the Referendum Centres should be static throughout the duration of registration, polling, counting and declaration of results from that Centre.

The Act further stipulated that the SSRC should establish RCs in the northern states and any other locations, provided that “the number of the registered voters in each centre shall not be less than twenty thousand (20,000)”.<sup>33</sup> Although 175 RCs were established throughout the northern states, and was roughly proportional to the number of Southern population residing in the north (according to the 2008 census), many complaints were made to EU EOM LTOs by voters and community leaders (particularly in Southern Kordofan) that the RCs were not always distributed in areas where Southern Sudanese were residing. This led to the relocation of some RCs during voter registration, especially in Khartoum. The Act also allowed for out-of-country registration and voting, and a total of 80 polling stations in 42 Referendum Centre locations were established in Kenya, Uganda, Egypt, Ethiopia, the United States of America, Canada, the United Kingdom and Australia.<sup>34</sup>

#### *National and international partner support to the Referendum process*

The Government of National Unity (GNU)/Government of Southern Sudan (GoSS ) made a financial commitment of \$179 million to support the Referendum budget, of an overall expected budget for the Referendum of \$373million (48 per cent). The main focus of the GNU/GoSS commitments were an estimated \$77million towards the security sector (in terms of police/military security of both the Referendum Centres, transport of Referendum materials and the payment of state security personnel) as well as

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<sup>31</sup>The population of each county, according to the census, was divided by two in order to estimate the number of voters. The resulting figure was then divided by 2000 to get the number of RCs per county. Counties were then instructed to distribute the number of RCs allocated to their county to appropriate locations as they saw fit.

<sup>32</sup> Section 14(2)(c).

<sup>33</sup> Section 27 (2).

<sup>34</sup> The EU EOM did not observe out-of-country voting.

the general security environment for the campaign. A further \$37million was envisaged to support staffing of the various levels of SSRC/B as well as Referendum Centre staff. It is unknown how much of its financial commitment the GNU met, however. Throughout the process, the SSRB regularly complained to the EU EOM that funds from Khartoum did not arrive, and at times there appeared to be a serious risk that crucial elements in the process would have to be postponed. This was particularly relevant on the issue of staff salaries for the voter registration and polling staff <sup>35</sup>(see Voter Registration section below).

Pursuant to United Nations (UN) Security Council Resolution 1590 (2005), the UN was mandated to support and guide the parties to the CPA in the conduct of the Referendum.<sup>36</sup> Following the experience of the 2010 elections, and some dissatisfaction expressed by some donors to that process of the alleged disconnect between the UN Mission in Sudan and the United Nations Development Programme(UNDP),<sup>37</sup> it was decided, in summer 2010, to establish a UN Integrated Referendum and Electoral Division (UNIRED) to support the Referendum. The Director was based at UNMIS HQ in Khartoum and the Deputy Director at the UNMIS compound in Juba. By the time of the Referendum, UNIRED consisted of a team of some 250 international staff, spread throughout the 10 states of Southern Sudan with a smaller team in Khartoum.<sup>38</sup> UNMIS donated an estimated \$84million from its budget towards the Referendum, the majority of which (\$66million) went towards air support and transportation logistics. Some \$58million was committed to a UNDP-managed basket fund from 10 donors (including €3.75million from the EU Delegation to Sudan), which went towards supporting UNIRED's work. \$23million of the \$58million went towards supporting voter education, domestic observation and media monitoring.

The United States Agency for International Development (USAID), which contributes to UNDP-managed basket funds in only a small number of cases

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<sup>35</sup>In the end, USAID made a \$5 million contribution towards the payment of polling staff

<sup>36</sup> Resolution 1590 (Article 4[x]) mandated UNMIS to "provide guidance and technical assistance to the parties to the CPA, in cooperation with other international actors, to support the preparations for and conduct of elections and referenda provided for by the CPA."

<sup>37</sup> UNDP is the lead UN agency on electoral assistance, as per the signed 2001 Guidance Note on Electoral Assistance (revised in late 2010) between UNDP and the UN Department of Political Affairs.

<sup>38</sup> Many more international UN Volunteers, in particular, were due to join UNIRED, to work out of referendum support bases in each of the 79 counties, but in the end, only a handful of such bases were constructed, and many proposed UN staff were unable to secure visas to travel to Sudan.

and did not do so here, contributed approximately \$50 million support to the Referendum, a large portion of which was channelled through the National Democratic Institute (NDI) and the International Republican Institute (IRI) for Sudanese civil society, mainly in voter and civic education work and the work of domestic observers. IRI supported political party training, focusing on political parties' polling observers.<sup>39</sup> Some \$10<sup>40</sup> million of USAID's commitment was allocated to their main electoral assistance implementing partner, the International Foundation for Electoral Systems (IFES). With a team of advisors based in Juba and Khartoum, IFES took the lead on the design and supply of both equipment and technical advisors to the Data Centre at the SSRB in Juba. IFES procured both the Registration Books and polling kits for the Referendum Centres, and also elaborated the procedures for both voter registration and polling that were presented to the SSRC for editing and approval.

The EU Delegation also implemented a €2million technical assistance project via the International Organisation for Migration (IOM), focusing, through its small team of technical advisors, primarily on legal advice in the elaboration of procedures, and also on the design and implementation of the cascade model of training of both voter registration and polling staff.

#### *The GoSS Task Force on the Referendum*

The Government of Southern Sudan (GoSS), from its allocation to support to the Referendum, allocated 30 million Sudanese pounds<sup>41</sup> to a Referendum Task Force. The Task Force had a mandate to support the Referendum process, facilitate coordination of stakeholders for the effective management of the Referendum and the post-Referendum period, and assure that actions were taken at all levels of government in the preparation of the Referendum. The local government authorities were in charge of the Task Force: at state level the Deputy Governor was the Task Force Chairman, while the County Commissioner and the *Payam* administrator led the county Task Force Committee.<sup>42</sup> Both GoSS and opposition political parties agreed that opposition parties should participate in the Task Force, who were allocated 42 million Sudanese pounds<sup>43</sup> to political parties. The funds were to allow the parties to

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<sup>39</sup> In the north, IRI facilitated such training opportunities through the PPAC.

<sup>40</sup> IFES financial records show \$10 million expenditures since August 2010.

<sup>41</sup> Approximately \$10m.

<sup>42</sup> Chairpersons were, in almost all cases, SPLM leaders/members.

<sup>43</sup> Approximately \$14m. Of the 42 million Sudanese pounds for political party funding, 10 million was allocated to all political parties of Southern Sudan (including SPLM), 20 million was allocated

play a key role in campaigning and mobilising people for voter registration and the Referendum, as well as to promote civil society organisations' activities, who also received 10 million Sudanese pounds.<sup>44</sup>

The Task Force provided logistical support to RC staff and assisted in awareness-raising among the people on issues related to the Referendum. The Task Force played a key role in assuring that people in remote areas were provided transportation to the RCs to both register and to vote.

The extent of the GoSS commitment to the Task Force meant that in states such as Central Equatoria, the Task Force played an extremely influential role in the implementation of the Referendum, and, considering that at times it seemed to have a far larger budget than the Referendum bodies themselves, appeared to be the driving force. The Chairman of the Central Equatoria State High Committee told the EU EOM that the mandate of the Task Force was never formally communicated to him, and that there was no communication/collaboration between the State High Committee and the Task Force. Task Force members did not have formal accreditation from SSRC. Some interlocutors referred to the State High Committee and the Task Force as "two parallel pillars" not working together. Task Force members in Juba told the EU EOM that they facilitated the referendum process, through providing logistical support, training the RC staff if needed, collecting relevant information on the process and mobilising the people to go to register. As some of these tasks were SSRB responsibilities, it meant that the Referendum administration officials were answering to two masters and the political and financial independence of the Referendum bodies was not always guaranteed. The Governor of Western Bahr el-Ghazal,<sup>45</sup> for example, told the EU EOM that the State High Committee reported to him.

### *Performance of the Referendum Administration*

EU EOM observers assessed the performance of the Referendum administration as generally efficient, organised and well-prepared. Despite the logistical challenges and the late appointment of all Referendum officials, the Referendum bodies managed the preparations for the polling days effectively. The SSRC/B administered the Referendum process in a largely transparent,

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to the political parties in the northern states and 22 million was allocated to the political parties based outside the country.

<sup>44</sup> Approximately \$3m.

<sup>45</sup> In a meeting with the Chief Observer on 11 January.

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collegial and timely manner, especially considering the challenging circumstances and shortened deadlines. In Southern Sudan in particular, however, the SSRB, at all levels, was hugely reliant on the technical assistance, operational and logistical support provided by UNIRED, without whom the Referendum would not have taken place on time, or in the efficient manner that it did.<sup>46</sup>

UNIRED and IFES took very proactive roles in implementing their mandate. With tight procurement deadlines, crucial planning documents such as the separate training manuals for Referendum Centre staff containing the procedures for both voter registration and polling and counting were first drafted by the international advisors and then presented for comment and approval by the SSRC/B, something that caused some tension in the relationship between the Commission and its advisors. With its huge logistical capacities, and capacity for internet telecommunications that meant that UNIRED advisors in the field often received instructions from HQ first which they then communicated to their SSRB counterparts, UNIRED was often the driving force behind the SSRB meeting its operational deadlines on time. For its part, the design and operation (in terms of the management) of the Data Centre in Juba put IFES advisors at the very centre of the SSRB's management of its data (and in particular, in documenting the data gathered from each of the 2,638 Referendum Centres following the voter registration exercise, and in processing the results).

Although the SSRC made efforts to clarify procedures, it was late in formally adopting guidelines and regulations on voter registration, polling and counting, while the list of the Referendum Centres was published at a very late stage of the process (on the afternoon of 14<sup>th</sup> November, with the voter registration beginning on 15<sup>th</sup> November.) Consequently, information was not fully communicated to the lower-level bodies and to voters.<sup>47</sup> In addition, communication between different levels of the Referendum administration was sometimes erratic, while inconsistency was observed in the instructions provided to the Referendum administration at state and county level.

The SSRB held regular press conferences during the registration period, contributing to the transparency of the process and to a climate of sound

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<sup>46</sup> A fact acknowledged by the Chairman of the SSRB, Justice Chan Reec Madut, during his speech announcing the Provisional Results in Juba on 30<sup>th</sup> January, 2011.

<sup>47</sup> Lower Referendum management bodies consistently reported to EOM LTOs of not receiving instructions on time, and often being informed by the media first – for instance for the extension of voter registration, or the extension of polling hours.

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cooperation with national and international stakeholders; during the polling period, however, only two press conferences were arranged on a very short notice to the press and other interested parties.

In Khartoum, the SSRC-managed Data Centre showed a commendable degree of openness and information-sharing with EU observers during voter registration and aggregation of results. In Juba, however, the Data Centre operated under very restricted rules for national and international observers, which were not in the spirit of a transparent process.<sup>48</sup> Only during the results aggregation process was an element of transparency introduced into the work of the Data Centre, after repeated concerns raised by the EU EOM and other international observers. Nevertheless even then the process lacked full transparency.

## **VII. VOTER REGISTRATION**

Shortly after their appointment in summer 2010, the SSRC decided that in order to meet the CPA-mandated 9<sup>th</sup> January, 2011, deadline for the Referendum, there would be no centralised voter register for the Referendum, electronic or otherwise, kept at any level above the individual Referendum Centre. Voters' details would be hand-written in Registration Books, and a Registration Card, with a serial number corresponding to the entry in the Registration Book, would be given to voters. No photo of the applicant would be taken.

The choice of this methodology, as opposed to using Optical Mark Recognition forms or digital registration kits to build an electronic voter database (the most common registration methodologies in Africa), saved many weeks in the Referendum timeline, and although the methodology prevented a cross-checking for duplicate entries that centralised electronic voter registration databases allow for, made it possible for the SSRC to commence polling on 9<sup>th</sup>

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<sup>48</sup> The initial rules for the Data Centre proposed by UNIRED advisors proposed a rotating seat for international observers, as well as harsh rules that prevented observers from coming and going freely, instead restricting their attendance to particular hours. Observers were not allowed entry with any items, including a pen and paper, and observers were restricted to a viewing area that rendered meaningful observation impossible. Following discussions between IFES advisors, the Bureau and UNIRED, the rules were relaxed slightly to allow a greater number of seats for observers, but still not in a way to make meaningful observation possible.

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January, 2011.<sup>49</sup> The choice of this methodology also led to serious cost benefits in the Referendum budget.<sup>50</sup>

### *Voter Registration Procedures*

Voter registration was initially carried out from 15<sup>th</sup> November to 1<sup>st</sup> December. Considering that the Secretary-General of SSRC was only appointed in September, this was a staggeringly short period (less than 3 months) in which to commence registration, completely out of synch with international practice,<sup>51</sup> which represents a significant achievement and for which the SSRC/B and its international partners should take immense credit. On 26<sup>th</sup> November, the SSRC extended the process until 8<sup>th</sup> December.

During registration, the identity of the applicant for registration could be proved (Section 26 of the Act) by an ID card or another identification document, or an officially approved certificate or an ID document issued by UNHCR. In addition, an applicant could also prove his/her identity through an oral or written testimony by the concerned Chief of the County. In assisting with this stipulation of the Act, the SSRC Voter Registration Regulations 2010 specified that, in case of doubt about the authenticity of any document, the Chairperson of the RC should seek the assistance of the Sultan or the concerned Chief of the village. Although the term “Identifier” does not appear in the Act, the SSRC Registration and Exhibition Manual clarifies that this term refers to those persons approved by the SSRC to assist the Chairperson of the RC in identifying applicants with no personal identification documents.<sup>52</sup>

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<sup>49</sup> OMR forms, for example, need to be first scanned in centralised scanning centres and require many weeks, depending on the size of the database, for data cleansing and eventual printing. Digital registration kits, with their huge expense, require lengthy procurement lead-in times and extensive time for the development of accurate technical specifications.

<sup>50</sup> The Registration Books (containing the Registration Cards) were procured by IFES at an approximate cost of less than \$1 million. Thus the registration equipment cost approximately less than \$4 per voter. This contrasts significantly with, for example, the recent voter registration exercise in Zambia, where 1000 digital kits were procured by UNDP at a cost of approximately \$6 million, and yielded, in the 2010 mobile voter registration exercise, a total of approximately 1 million voters (approximately \$60 per voter).

<sup>51</sup> Senior Secretariat staff in the Interim Independent Electoral Commission in Kenya, for example, were appointed in January 2010 and commenced voter registration, using a mix of OMR forms and digital kits, in May 2010 (5 months), which was also considered a significant achievement.

<sup>52</sup> Along with Section 26, Section 28 also deals with conditions of registration, but in more restrictive terms, as it requires, for the proof of an applicant’s identity, an identification document or a certificate authenticated by the Administrative Unit in the County or by the concerned local or traditional authorities. This ambiguity was clarified with the SSRC Voter

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Following the completion of voter registration, the Registration Books were exhibited at each RC from 10<sup>th</sup>– 17<sup>th</sup> December. This allowed voters to apply to correct errors in how their details were recorded by Referendum Centre staff, and/or object to the inclusion of another voter. The Act provided for an objections process through local Considerations Committees and local courts nominated as competent by the judiciary.

In the northern states, the exhibition and appeals operation was generally well run, while in Southern Sudan it varied from one state to another. A large number of RCs in the south opened only during the second day of exhibition. Voters did not appear to actively exercise their right to check the Preliminary Referendum Register (PRR). In addition, in most RCs observed, the lists were generally available for individual scrutiny but it was not feasible for them to be on public “display” (due to the fact that the PRR consisted of the original binded registration Books). This minimised the possibility for registered voters to check through the PRR in order to object to somebody else’s registration. Overall, the understanding of the exhibition and appeals process by the Referendum administration and the general public was very low, with the process being perceived as having little relevance.<sup>53</sup>

At the end of the voter registration exercise, summary registration data from each Referendum Centre was entered onto Data Entry Forms (R5) by the Referendum Centre staff and then transported, via each of the County Sub-Committees (and the 10 SHCs) in Southern Sudan to the SSRB Data Centre in Juba, and, in the north, via the State Referendum Committees to the SSRC Data Centre in Khartoum.<sup>54</sup> The Data Centre in Juba received roughly 700 incorrectly completed R5 forms (in excess of 25 per cent of total forms in Southern Sudan) that required follow-up by the SSRB. Insufficient training of RC staff was attributed as the main reason for these discrepancies. Assuming that the extent of errors in the R5 forms would be repeated during completion of the

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Registration Regulations, which specified in (Article 10[h]) that as proof of identification, an oral testimony by a concerned county official or dignitary of the concerned community could also be used.

<sup>53</sup> With regards to corrections, for example, if an error was recorded in the Registration Book, it is likely that the same error was recorded on the Registration Card. As the majority of voters were identified in the RCs by the Identifier and without ID documents, it was not known to the polling staff that there was an error in the voter’s details during polling.

<sup>54</sup> In the north, each of the 17 State Referendum Committees was responsible directly for a number of Referendum Centres. The Data Centre in Khartoum was additionally tasked with the aggregation of Data Entry Forms from the OCV countries.

results aggregation documentation from the Referendum Centres led IFES and UN advisors in the Data Centre in Juba to propose to the SSRC, via the SSRB, the controversial policy to only investigate the polling results of Referendum Centres where the number of votes cast exceeded the number of registered voters by 5 per cent (see Results below).

Once final data was aggregated, the SSRC announced, on 8 January, that 3,932,588 voters were registered for the Referendum (an increase of 1,672 over figures earlier announced, incorporating the decisions from complaints and appeals). 95.5 per cent of registered voters (3,755,512) were registered in Southern Sudan. Remaining voters were distributed across the 10 northern states (116,857) and the 8 out-of-country voting locations (60,219).<sup>55</sup>

Although an average number of 1,423 voters were assigned to each Referendum Centre in Southern Sudan, significantly larger numbers were registered in some urban centres, including at the Dr. John Garang Mausoleum centre in Juba, where President Salva Kiir Mayardit was both the first to register and the first to vote (both events were turned into ceremonies by SSRB), which registered some 12,000 voters.<sup>56</sup>

According to the amended Referendum timeline released by the SSRC after the extension of the voter registration period, the Final Referendum Register (FRR), consisting of the original Registration Book, as well as the final Lists of Corrections, Deletions and relevant Court decisions of that particular RC, if any, was published on 8<sup>th</sup> January. Hard copies of the Final Referendum Register were sent for public scrutiny at the State High Committees in Southern Sudan and at the State Referendum Committees in the north. The Final Referendum Register was also sent on the same day to the RCs, to be used during polling. According to EU EOM observers, the FRR was sent to the RCs visited, but copies of the FRR were generally not published at the State High Committees or State Referendum Committees for inspection.<sup>57</sup>

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<sup>55</sup> The SSRC-declared threshold for the Referendum to be valid was thus also declared, on 8 January, as 2,359,533 voters (60% of the Final Referendum Register).

<sup>56</sup> The announcement of the unofficial Preliminary Results for Southern Sudan, the northern states and the OCV locations, was also conducted at the Dr. John Garang Mausoleum, by SSRC Chairman Professor Mohamed Ibrahim Khalil and SSRB Chairman Justice Chan Reec Madut, on 30 January 2011.

<sup>57</sup> In Torit (Eastern Equatoria), the SHC received the copy of the Registration Book. There were no deletions or court decisions and the Lists of Corrections were still in each County Sub-Committee. In Juba (Central Equatoria), Northern Bahr-el-Ghazal and Kwajok (Warrap), the FRR was not displayed at the State High Committee, but it was sent at six RCs visited by EU EOM observers. In Bor (Jonglei) and in Western Bahr-EI-Ghazal, all observed RCs had received the FRR, but it was not published at the State High Committee. In only two out of six RCs visited in

The number of voters registered in Southern Sudan was equivalent to 86.6 per cent of eligible voters as per the controversial 2008 census, and represented 80 per cent of the number registered for the 2010 elections.<sup>58</sup> Given that the November-December 2009 registration exercise was carried out over 37 days, however, as opposed to the 24-day exercise for the Referendum, it would appear that SSRB processed approximately 32 per cent more voters per day than what was achieved by the authorities in 2009. The percentage of eligible voters registered was very respectable by regional standards (Kenya achieved slightly less for the 2010 Constitutional Referendum). Nevertheless the EU EOM is concerned that participation in the registration exercise was encouraged by the GoSS to the point that it became a prerequisite for some public officials in order to work normally. The EU EOM received reports, for example, that Referendum voter cards were required to be produced by civil servants in order to receive monthly salaries.<sup>59</sup>

#### *Appeals and objections at voter registration*

The Act provided for an objections process at the voter registration phase through local Considerations Committees attached to each RC, with an appeal process, if required, to local "Competent Courts,"<sup>60</sup> and a parallel means of correcting the corrections through the County Sub-Committees. That last step was not reflected in the Voter Registration Regulations<sup>61</sup> and was not implemented. The SSRB's own website set out that to comply with the voter registration timetable including this extra stage would take 39 days, so the decision not to implement it saved 15 days. The Act did not provide any remedy for persons rejected for registration but this was added by the regulations, again through the Considerations Committees.<sup>62</sup>

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Khartoum was the FRR was published for inspection, while in most of the RCs in Yambio (Western Equatoria) the FRR and the Lists of Corrections and Deletions were not completed and hence not shared with the State High Committee. In White Nile, the FRR was displayed in five RCs out of the seven visited. In Bentiu (Unity) the FRR was not displayed, but reportedly the lists had been sent to all RCs, while in the one RC visited in Kadugli (Southern Kordofan), the FRR was not displayed.

<sup>58</sup> 4,680,640 voters were registered in Southern Sudan for the 2010 elections, which, according to the 2008 census that GoSS officials say significantly under-counted the Southern population, represented approximately 108% of the estimated eligible population.

<sup>59</sup> Reports were received from Central and Western Equatoria.

<sup>60</sup> Where certain local courts, nominated for Southern Sudan by the President of the Supreme Court of Southern Sudan and for the northern states by the Chief Justice of the National Supreme Court, were designated as competent to deal with Referendum-related disputes.

<sup>61</sup> 16 November, 2010.

<sup>62</sup> On the advice of UNIRED.

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The role of the Consideration Committees in the registration phase was undermined by their late establishment, inaccessibility and the lack of information for applicants as to their role and location. Nevertheless they did deal with a small number of rejection cases<sup>63</sup> and corrections (mostly mis-transcriptions of names), and a very small number of third party objections. According to the SSRC, no appeals against the decisions of the Consideration Committees were submitted to the Competent Courts, although the judges were trained and in place for the required period.<sup>64</sup> While the absence of court appeals was presented by the SSRC as showing that there were no problems at the registration stage, it more likely reflects a difficulty with information, access and distance in the chain from Referendum Centre to Considerations Committee to court.

The Act contained no provisions for supplementary voter lists to include successful appellants to the Final Referendum Register and the registration period came to an end (8<sup>th</sup> December) before such appeals were adjudicated by the Competent Courts. SSRC agreed that successful appellants would receive a Court order, which they would present to the RC and would be allowed to vote. This, however, contradicted the Regulations that stipulate that only those persons with a Registration Card are eligible to cast their ballot. As a result, the various levels of the Referendum administration did not receive clear instructions on what to do with voters attending Referendum Centres during polling with court orders. In practice, however, there were very few Court decisions.

Likewise, the Act or Regulations did not address voters that lost their Registration Cards in advance of polling, and thus, according to the SSRC Regulations for Polling, Sorting, Counting and Declaration of Results 2010, they were not entitled to cast a ballot. SSRC reported to the EU EOM, however, that in cases where a voter produced a written statement by the police, stamped by the State High Committee, at the Referendum Centre where they registered during polling, they would be entitled to cast a ballot. While the Bureau stated to the EU EOM that it did not favour this option as it was not in accordance with the Act, it suggested that it would be at the discretion of the RC Chairperson whether to allow such a voter to cast a ballot based on the

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<sup>63</sup> By sending successful appellants back to the RC for registration. Such registrations are a successful use of the appeal process but lists of additions were observed by EU observers in only 6.5 per cent of the RCs.

<sup>64</sup> Information at SSRC press conference on 8 January.

conditions of the loss and whether the voter was known to the RC staff.<sup>65</sup> SSRB thus issued an instruction two days before the end of polling (14<sup>th</sup> January) according to which voters that lost their Registration Cards would be allowed to vote, provided that the loss had been reported to the police and that the voter's name was included in the Referendum Register.

#### *Assessment of voter registration process*

Overall, the voter registration took place in an orderly and calm atmosphere. From 15<sup>th</sup> November to 8<sup>th</sup> December, EU observers visited 245 Referendum Centres across the country (30.5 per cent in rural areas and 69.5 per cent in urban areas). EU observers did not record problems in 86 per cent of the RCs visited; observers assessed the overall registration process as good or very good in some 76 per cent of the RCs. RC staff reported problems to the Sub-Committee in 41 per cent of the RCs observed, mainly related to the payment of staff and to the supply of additional registration material. EU observers assessed the completed Registration Books and material as good or very good in 82 per cent of the RCs.

The identification of applicants was conducted in an orderly manner, despite some shortcomings. The EU observers noticed some problems mainly related to the fact that people were not always checked for their ancestry in order to confirm eligibility, as long as they possessed Southern Sudanese facial features or were conversant in the local dialects. Assessing eligibility on the basis of proficiency in local dialects or given apparent "southern" facial features, however, raises obvious issues about uniformity and fairness in the application of standards. RC staff members in Khartoum, for example, were observed following the father's blood line rule despite the provision of the Act<sup>66</sup> allowing the applicants to register when *either* parent belonged to any of the indigenous communities residing in the South in 1956.

RC staff, in many cases, demonstrated a sincere commitment and intention to the credibility of the identification process, however, by recruiting more than

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<sup>65</sup> During the training of RC staff, they were instructed not to allow voters without a Registration Card to cast their ballots (Central Equatoria, Khartoum States). EU observers reported that in some states (Jonglei, Southern Kordofan, Western Bahr-El-Ghazal) the SHC had received clear instructions on this by the SSRB, while in other states (Lakes, Western Equatoria, Eastern Equatoria, Central Equatoria, Northern Bahr-El-Ghazal, Warrap) the SHC was still waiting for instructions, but was maintaining the view that everyone whose name was included in the FRR and was identified by the RC staff would be allowed to vote, even without a Registration Card.

<sup>66</sup>Section 27(4).

one identifier in order to represent more ethnic groups. In most of the RCs in the northern states visited by the EU observers, there was more than one identifier in place; as the RC staff explained to the EU teams, this was necessary due to the mixed ethnic Southern Sudanese population.

Procedural problems were noted in the remaining 14 per cent of the RCs visited; the most widely observed procedural violations concerned the absence of an identifier (in 9 RCs). Unauthorised persons were observed in some 28 per cent of RCs, in most cases being security or intelligence agents, GoSS Task Force members and prison officers.

## **VIII. PARTICIPATION OF CIVIL SOCIETY**

Sudanese civil society played an important part in the Referendum process both in the voter and civic education and domestic observation fields (as well as in media monitoring, see Media section below). International civil society was engaged in both observation of the process and training of Sudanese civil society in the voter and civic education field.

### *Voter education and information and civil society*

The voter education and information effort was designed as a mass media effort complemented by door-to-door initiatives carried out by local civil society organisations. Technical advice and support was provided by international partners. The mass media campaign was coordinated at SSRC level by an independent media committee and supported by UNIRED's Public Outreach division. A disagreement between UNIRED and SSRC on the UN procurement procedures that resulted in one particular advertising agency being employed to distribute some materials meant that many electronic materials produced ended up not being broadcast. Much of the pre-Referendum electronic media voter education content was produced pre-voter registration and thus contained generic motivational messages only. Representatives of SSRB regularly featured in voter education programmes funded by UNDP, on the Government of Southern Sudan-owned Southern Sudan TV and on Southern Sudan Radio. The campaign's effectiveness was assessed by EU observers as somewhat deficient, based, as it was, on media that required access to TV and radio sets (see Media section below) and directed at a population fluent either in English or standard Arabic.

The separate ‘face-to-face’ voter information effort, funded by the UNDP basket fund and managed by IOM, was carried out by Sudanese civil society organisations, who distributed SSRC information materials (posters, t-shirts, shopping bags, etc.) and employed direct contact means to educate voters. Separately, NDI developed its own voter education effort through its network of local NGOs, marshalled by the northern and southern umbrella groups, SuGDE and SuNDE, respectively. Blurring of campaigning and voter education efforts was sometimes evident in the south, however, with groups such as the “Southern Sudan Civic Education Organisation” mass-producing sample ballot posters with the separation option pre-marked. Overall, much of the voter education effort focused on maximising voter participation, with few voter education activities addressing the consequences of either option in terms of post-Referendum arrangements.

In the north, one possible reason for the limited impact of the “face-to-face” voter information campaign was that the very NGOs that had performed voter education activities prior to the April 2010 elections had no specific expertise in targeting a Southern Sudanese audience. Combined with a muted political campaign which never effectively attempted to mobilise voters in favour of one option or the other, it resulted in a very low knowledge of basic voting procedures among voters, north and south (in 52 per cent of all RCs observed by the EU EOM).

#### *Domestic election observation*

In the northern states, the SSRC issued over 5,260 accreditations to a total of 50 domestic observer organisations for polling.<sup>67</sup> In Southern Sudan, the SSRB distributed well over 10,000 polling accreditation badges for domestic observers.<sup>68</sup> <sup>69</sup> Domestic observers were led by two large networks in the south: the Sudanese Network for Democratic Elections (SuNDE, assisted by NDI) and the Sudan Domestic Election Monitoring and Observation Programme (SuDEMOP, assisted by UNDP and the Carter Center). In the northern states,

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<sup>67</sup> Significantly smaller numbers of accreditations were issued for voter registration.

<sup>68</sup> As State High Committees were tasked with accrediting domestic observers at the local level, the Bureau did not record the total number of accreditations issued, but is aware of how many badges were distributed to the SHCs.

<sup>69</sup> Late changes to the procedures meant that at the end of December 2010, some domestic observer groups in Southern Sudan had been instructed to provide passport photographs for each of their observers, whereas others were not. SSRC first instructed on 1 November that the domestic observers should provide photos, and then dropped this requirement on 7<sup>th</sup> November.

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the Sudanese Group for Democratic Elections (SuGDE), a sister network of SuNDE (insofar as they released joint statements at various stages of the process), were also assisted by NDI, along with three organisations assisted by the Carter Center. Between them, SuNDE and SuGDE deployed up to 3,000 static observers. SuDEMOP deployed over 2,500 static observers, and some coordination between both large southern groups to ensure blanket coverage of all RCs by at least one team of observers was welcome.

Domestic observers deployed in significant numbers for the Referendum and were a reassuring presence throughout the process, with an attendance rate of nearly 96 per cent of all RCs observed. This represents a significant contribution to and enhancement of the process by Sudanese civil society and bodes well for future electoral processes, both north and south.

Regarding political party agents, on 29<sup>th</sup> December, a one-day briefing was held by the SSRC with the International Republican Institute and the Political Parties Affairs Council (PPAC) in Khartoum on “Observers best practices for Referendum voting, sorting and counting”. Approximately 180 party and civil society observers attended – with over 25 parties and 35 NGOs represented. A flaw in the Act, however, was that there was no provision to enable party agents to observe the voter registration and polling processes. The SSRC Accreditation Guidelines of 7<sup>th</sup> November, 2010, thus did not differentiate between domestic non-partisan observers and party agents. These two categories of stakeholders have different interests in the process that would be better served with separate accreditation categories. Political party representatives, acting formally as domestic observers, also had no legal right to formally challenge RC-level operations, particularly the crucial sorting and counting phases.

### *International Election Observation*

Given the historical status of the Southern Sudan Referendum (only the second independence referendum in Africa since the Guinean referendum in 1958), as well as its importance in the implementation of the Comprehensive Peace Agreement, sizeable international observation missions by multilateral organisations were deployed by, among others, the African Union, the Intergovernmental Authority on Development, and the League of Arab States. Bilateral partners of Sudan, such as Brazil, Canada, the United States, Russia, China, Japan and several EU member states also chose to dispatch teams of observers. The Carter Center, having also deployed a large mission for the 2010

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elections, continued their presence in Sudan and deployed a new mission, with a new Memorandum of Understanding, in August 2010, with core staff and LTOs arriving in September 2010. Separately, the United Nations Secretary General's Panel on the Referenda in Sudan (UNSG-P), consisting of three high-level personalities from Tanzania, Portugal and Nepal carried out a "good offices" international monitoring role as envisaged in the Act, and as requested by the CPA parties. The UNSG-P despatched Reporting Officers for each Sudanese state from October 2010.

Whilst the majority of observation missions observed exclusively the polling and counting phase of the Southern Sudan Referendum, the UNSG-P and the Carter Center observed the process in its early stages. Both issued regular statements throughout the various stages of the process.

From mid-December, the EU EOM, the Carter Center and the African Union organised weekly "Observers Forum" meetings in both Khartoum and Juba. Along the lines of the successful precedent of the April 2010 elections, the Donor Working Group organised videoconferences every two to three days during the polling period, which brought together international and diplomatic observers at the EU Delegation offices in Khartoum and Juba.

## **IX. PARTICIPATION OF WOMEN**

Equality before the law, without discrimination as to sex, is enshrined in Article 31 of the INC, and in the ICSS Bill of Rights. Female participation in public life has long been limited by culture and custom in the society of Sudan. Women occupy only 2.1% and 2.9% of decision-making positions in national and state ministries respectively.<sup>70</sup> Sudan has signed but not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Interim National Constitution, however, establishes equal rights for both men and women (Art. 31). There is a 25 per cent quota for women's representation at the National Assembly. In Southern Sudan, the Ministry of Gender, Children and Social Welfare has the state responsibility for promoting women's participation in public life. The situation at ministerial level in Southern Sudan is considerably more equal, with 25 per cent of ministries headed by women.

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<sup>70</sup> Figures courtesy Ahfad University for Women

### *Women in Referendum administration*

Illiteracy remained a significant impediment to women's employment, particularly in Southern Sudan, where allegedly as many as 88 per cent of all women cannot read or write.<sup>71</sup> In the Referendum administration bodies, EU observers reported that only 5.4 per cent of RCs visited had female Chairpersons. 44.7 per cent of RCs in the northern states, and 36.3 per cent of RCs in Southern Sudan, had no woman staff member at all. In another 35.2 per cent (northern states) and 41.1 percent (Southern Sudan), only one staff member was female. This low participation of women is partly due to the age limit of over 40 years belatedly imposed upon all RC staff members. As a result, dozens of them were laid off by the Referendum administration after the end of the registration period, as preparations were being made for the polling phase of the process. This measure disqualified some of the best educated women staff members, i.e. the younger generation that had benefited from the improved access to education availed to women after the 1990s. Another impediment to the employment of women as polling staff was the "overnight" requirement for polling staff at Referendum Centres during the seven-day polling period. Strict adherence to local cultural and religious codes made this obligation difficult for many Sudanese women across the country.

### *Women as registrants and voters*

52 per cent of voters registered for the Referendum were women. In the northern states, however, women represented only 39 per cent of all registered voters, with lows of 27 per cent in Northern Darfur, 29 per cent in Western Darfur and 33 per cent in Gedaref and Sinnar. EU observers enquired about the causes of this stark contrast between north and south and found that Southern Sudanese men residing in the north had been first sending their families south while continuing to work and/or look after property in the north for some time. This sequenced southwards migration, with working-age men staying in the north, had an impact in both registration and turnout figures, as large proportions of the women who had registered in the north had travelled in the meantime and could not vote once away from the vicinity of their Referendum Centre.

In Southern Sudan, the rates of female voter registration seemed to better reflect the overall share of women in the adult population. In some cases

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<sup>71</sup> UNFPA Sudan. [http://sudan.unfpa.org/souther\\_Sudan/index.htm](http://sudan.unfpa.org/souther_Sudan/index.htm)

however, such as in Jonglei, significantly more women than men registered. This was, to some degree, due to the high proportion of men stationed as security forces away from their areas of origin, and also due to the death toll among men during the Second Sudanese Civil War.

OCV registration figures delivered by the Khartoum Data Centre gave a slightly unbalanced figure, with women registered voters at 47 and men at 53 per cent. This majority of male registrants reflected a Southern Sudanese diaspora in which men are slightly overrepresented.

EU observers noted that women were the main beneficiaries of organised transport to the Referendum Centres. They were also more prone to vote during the last days of the voting period, i.e. the week end, during which employed men could look after families while women voted. However, as witnessed by the EU EOM, women had a lower command of polling procedures. This was due primarily to the continuing high levels of illiteracy and lack of access to media among women, both in Southern Sudan and in the north.

#### *Women in domestic observation*

The overall picture displayed by domestic observer groups stood in stark contrast with the nearly all-male RC staff. Trained by NDI and the Carter Center, observers from country-wide coalitions such as SuNDE/SuGDE and SuDEMOP and its three northern counterpart organisations had very large proportions of women representatives (often a majority at RCs) at nearly all RCs in the country, at state-level aggregation and finally, and at the Data Centres in both Juba and Khartoum.

## **X. REFERENDUM CAMPAIGN**

### *Campaign legal framework*

Despite constitutional guarantees, rights to campaign freely and express political opinions are constrained by Sudanese laws and how they are implemented. In both the northern states and Southern Sudan, state authorities wield broad powers under the Criminal Procedure Acts to control meetings and demonstrations.<sup>72</sup> These are interpreted so as to require prior

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<sup>72</sup> Section 127 of the Criminal Procedures Act (1991, northern states) and Chap XII of the Criminal Procedures Act (2008, Southern Sudan).

approval of meetings and marches, even during an electoral campaign. Furthermore parts of some post-CPA laws such as the Press and Publication Act 2009<sup>73</sup> and the National Security Service Act 2010<sup>74</sup> restrict the freedom to campaign.

This was not consistent with the commitment in the Act to allow the free expression of views on the Referendum, the constitutional protection<sup>75</sup> for the freedoms of expression, assembly and association, and the international recognition of those freedoms in the Universal Declaration of Human Rights and in the ICCPR. An example of these restrictions in action occurred on 8<sup>th</sup> January, 2011, when lawyers for the applicants in two of the Referendum cases at the Constitutional Court arranged a press conference in Khartoum but were denied permission by the National Intelligence and Security Services (NISS).

### *Conduct of the campaign*

Campaigning in the northern states was at best muted, in correspondence with the relatively small pool of registrants concerned with the poll. In Southern Sudan, GoSS was determined to pass the unreasonable 60 per cent turnout threshold required by the Act to validate the Referendum considerably, which became an undeclared aim to achieve 100 per cent turnout. The campaign thus focused primarily on mobilising voters, rather than any discussion on the consequences of either voting option. The effort was led by the SPLM at central, state, and local levels, and often excluded other political parties, despite their official participation in the GoSS-sanctioned Referendum Task Force.

While the conduct of the campaign did allow for a genuine expression of the will of Southern Sudanese, the SPLM's policy decision to pursue a 100 per cent turnout mobilisation strategy resulted in coercive measures in some areas. At times, the expectation to participate, encouraged by the ruling party, was so overwhelming as to affront the individual rights of voters to choose freely between the two options, or indeed to avoid participating in the process at all. The extremes of such behaviour were demonstrated in Western Equatoria,

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<sup>73</sup> This law provides for a special court to deal with prosecutions against the print media and there is a special prosecutor's office for that purpose. This law does not apply in Southern Sudan.

<sup>74</sup> Section 50 of the official Arabic language version makes clear that NISS has wide police powers including power to detain for 30 days without judicial review. The official English language version is not the same. This Act applies throughout Sudan.

<sup>75</sup> Articles 30 and 31 of the INC.

where the state governor described a minority religious community, the Jehovah's Witnesses, as "traitors" without reasonable legal basis for their desire to remain apolitical, thus violating their constitutional protections. The arson of the Jehovah's Witness church premises in Yambio on 1<sup>st</sup> January was a by-product of the general suspicion held against the community, an attitude fostered by the government. While the EU EOM welcomes the commitment by the governor of Western Equatoria on 27<sup>th</sup> January to lift restrictions on this religious community, no formal investigation into the fire had taken place by the time the EU EOM departed Sudan on 30<sup>th</sup> January.

In Southern Sudan police powers were used during the Referendum campaign by the SPLA in a few cases to arrest and harass pro-unity activists, as for instance when the chairman of the Council for Peace and Unity was arrested on arrival at Juba Airport in late November, as well as arrests of NCP members in Jonglei, Eastern and Western Equatoria and Western Bahr el Ghazal that took place both prior to polling and during polling.

Relatively few other formal campaign violations were reported, but in the heightened politicised environment of attaining maximum turnout in Southern Sudan, intimidation was not always overt. Documented intimidation of NCP members in Jonglei and Central Equatoria represented violations of state guarantees to allow freedom of association and expression. While isolated incidents did result in the loss of life in South Kordofan and Unity states, as well as in Abyei, these incidents did not detract from the generally good security situation in Southern Sudan, prior to, during, and post-Referendum. The commitment of the national authorities to ensure that the Referendum was held in a conducive security environment is to be commended.

Nevertheless, once polling commenced, despite the overwhelming free and voluntary popular participation of the citizenry, SPLM was able to take advantage of the 7-day polling period, particularly in the closing days of polling, to pursue individual voters who had not yet voted. EU EOM observers reported cases anecdotally where voters were rounded up by local government authorities and required to attend the polls. Such actions were encouraged by a senior political advisor to the state governor in a radio interview broadcast on Yambio FM on 14 January:

*"Even if you are one person who has voted for Unity we shall know you. Even if you are three hundred or more, if you have not voted we shall know you. There are some cards which are lost and they are found in Yambio FM; the owners are*

*being asked to collect it...There are some centres where more three hundred have not voted please for goodness sake. ..vote, today and tomorrow voting must take place. We are not going to be happy with you and we are going to look at you as traitors and we shall know you. We shall know you. By all means we shall concentrate as from tomorrow when the voting ends we shall now concentrate on seeing those people who have not voted and for the reasons they have not voted.. Indeed by tomorrow we shall try our level best to identify all those people who have not voted and they must tell the people of the south why they have not voted..”<sup>76</sup>*

## **XI. MEDIA**

### *Media environment*

The media environment in Southern Sudan is dominated by radio, which is the only media that reaches the public at large. Most radio stations are concentrated in Juba.<sup>77</sup> In rural areas, in addition to a few community radio stations, there is a network of state-owned<sup>78</sup> radio stations covering eight state capitals, and a private network<sup>79</sup> with radio stations in five states. Local radio stations have a very limited coverage, however, and the only radio station extensively covering the region is the UN Radio Miraya (broadcasting from Juba). Television is limited to one state-owned station, South Sudan TV; its audience is slowly increasing, but still constitutes a small minority of citizens.<sup>80</sup> All print media are privately owned. Development of the press sector has been hindered by the lack of a printing press in Southern Sudan, with newspapers printed in Khartoum, Uganda or Kenya. Poor distribution networks are another concern: throughout the EU EOM there was no effective daily delivery of newspapers from Khartoum to Juba, resulting in no newspapers at all in Southern Sudan on some days. Further problems for Southern Sudanese papers printed in Khartoum are the lack of financial resources (as they mainly rely on the Southern Sudan advertising market, which is not yet developed

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<sup>76</sup> The Governor’s comments were made on January 4 to an audience in Tambura County. The Yambio FM broadcast was made on January 14.

<sup>77</sup> There is one state-owned and nine privately-owned radio stations in Juba.

<sup>78</sup> State owned radios are present in Central Equatoria, Western Equatoria, Eastern Equatoria, Warrap, Western Bahr El Ghazal, Lakes, Unity and Jonglei

<sup>79</sup> Sudan Catholic Radio Network (SCRN) established a network of 6 radio stations in the states of Central Equatoria, Eastern Equatoria, Lakes, Warrap, and Upper Nile.

<sup>80</sup> In October 2010 a private television, Ebony TV, broadcasting via satellite has been launched but is not yet able to produce consistent broadcasts and does not enjoy a relevant audience.

adequately). The media industry faces difficulties with poor wages,<sup>81</sup> limited journalistic skills and training<sup>82</sup> and lack of equipment while the narrow advertising market limits media development.

Positive developments since the April 2010 elections, however, included the launching of new media outlets: Radio Voice of the People, Ebony TV, The Independent (a weekly newspaper started on 3<sup>rd</sup> January, 2011) and the inauguration of the first printing press in Southern Sudan, owned by the daily newspaper The Citizen,<sup>83</sup> which printed its first copy in Juba on 10<sup>th</sup> January, 2010.

### *Media legal framework*

There is a substantial vacuum within the media legal framework in Southern Sudan. Freedom of speech and expression is guaranteed in the CPA, the INC and the ICSS, but there is no specific media regulation. A Right to Information (RTI) Bill, a Southern Sudan Broadcasting Council (SSBC) Bill and an Independent Media Authority (IMA) Bill were submitted to Parliament in September 2009. However, after several amendments the bills were never submitted to a final vote. Currently, media regulation relies on the provisions in the ICSS and general guidelines from the Ministry of Information and Broadcasting of the GoSS.

Broadcast national media legislation in place in the northern states does not apply to Southern Sudan; nevertheless, Southern Sudanese newspapers printed in Khartoum have to comply with the Press and Publications Act 2009, which establishes the National Press and Publication Council as the regulating body with regulatory power over the print media. This includes tight editorial controls over content. The National Security Services Act 2010<sup>84</sup> and the Organisation of Humanitarian Voluntary Work Act 2006<sup>85</sup> inhibit the ability of the media and NGOs<sup>86</sup> to comment on the activities of government. An

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<sup>81</sup> The average wage of a journalist is 700 SDG, (350 to 400 SDG for a beginner) and a Chief Editor can get up to 3,000 SDG.

<sup>82</sup> Often the media provide to their journalists training such as *Blue Nile TV* and the paper *Al Sahafa*.

<sup>83</sup> The Citizen was previously printed in Khartoum and delivered daily to Juba.

<sup>84</sup> This law applies in both the northern states and Southern Sudan.

<sup>85</sup> Known as the NGO law. It does not apply in Southern Sudan but a similar registration system applies on an administrative basis. At a press conference on 20 January 2011 some northern states observation groups said they found the laws and regulations in the Southern Sudan made it difficult for them to operate there.

<sup>86</sup> Including domestic observation groups.

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example of the law in action during the Referendum was the prosecution at the Court designated for press and publication cases<sup>87</sup> of the editor of the Port Sudan newspaper for writing an article about the possible spread of self-determination demands after the Referendum.

Despite the absence of a comprehensive media law, the Referendum campaign was regulated through the Media Campaign Regulations (MCRs) 2010, issued by SSRC on 8<sup>th</sup> December, 2010, and the “Media Rules and Guarantees” of the Act. According to the MCRs, only “advocacy groups” registered with the SSRC were entitled to campaign for the Referendum; advocacy groups were meant to be civil society organisations, political parties or individuals. No official list of advocacy groups was ever released, however. An Independent Media Committee was established with responsibility for allocation of time and space in the state-owned media, aiming to provide equal access to the media for both Referendum options and the realisation of a comprehensive voter education campaign. The MCRs were published a long time after the official launch of the campaign,<sup>88</sup> however, and not all media outlets were aware of them.

Effective implementation of the MCRs was limited by their late release, lack of communication to media stakeholders, the absence of specific binding rules on time and space allocation and the minimal coverage of the events organised.

Beside the Referendum management body regulation, the EU EOM observed a case of self-regulation: UN Radio Miraya released on October 2010 a “Miraya Referenda and Popular Consultations Charter” containing detailed internal professional guidelines for their journalists when covering the Referendum.

### *Freedom of expression and media major challenges*

During the referendum period, the Khartoum Monitor, a Southern Sudanese daily printed in Khartoum, was suspended on 22<sup>nd</sup> and 23<sup>rd</sup> December by the National Press and Publication Council over several allegations.<sup>89</sup> The newspaper was covering the Referendum campaign extensively and the

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<sup>87</sup> Designated by the Chief Justice under S 34(1) of the Press and Publications Act 2009 for offences under that Act.

<sup>88</sup> The Referendum campaign period was from 7 November 2010 to 7 January 2011.

<sup>89</sup> Khartoum Monitor was suspended following a series of allegations referred to articles published on 4, 7 and 9 November 2010. The most sensitive case was an article entitled “Jesus and HIV” published on 4 November 2010 and considered by National Press and Publication Council as religious blasphemy.

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suspension was perceived as intimidation. EU EOM observed a general increase of harassments and attacks on freedom of expression in Northern states during voting days: on 9<sup>th</sup> January a weekly paper published in Port Sudan, *Sout al-Bar'out*, published an article saying the marginalisation and the lack of development of east Sudan could spread self-determination demands in the country after Southern Sudan separation. The editor-in-chief of the paper, Abu Eisha Kazim, and the author of the article, Abdel Gadir Bakash, were arrested and were, at the time of the EU EOMs departure, facing eight charges, among which trying to overthrow the constitutional government, an offense punishable by death under the Criminal Law. Harassment of journalists involved also international media when on 10<sup>th</sup> January a BBC troupe in Khartoum was interrogated by local authorities following the broadcast of a live programme about the Referendum for allegedly giving airtime to and interviewing members of the political opposition.

Conversely media in Southern Sudan were not affected by a direct tight control by GoSS but they faced other challenges.<sup>90</sup> One of their major problem was the lack of financial support, which resulted for instance in the interruption of publication of Sudan Tribune for five days, from 19<sup>th</sup> to 23<sup>rd</sup> December, 2010.

The low level of professionalism, reporting skills and media ethics resulted in occasional misreported statements and articles copied from the internet, sometimes without mentioning the source. International organisations provided local journalists with short-term training on proper referendum reporting, including the series of 3 day trainings provided by SMEC<sup>91</sup> involved many journalists from different states in December 2010. No major improvements on the qualitative level of the referendum coverage could be observed, however.

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<sup>90</sup>A recent challenge for newspapers with offices in the north is the scarcity of journalists as, prior to the Referendum, some moved back to Southern Sudan. This was one of the factors that caused a further interruption of the Khartoum Monitor for 10 days, from 24 December 2010 to 2 January 2011

<sup>91</sup>Sudan Media and Election Consortium is a group of national and international organisations with expertise in media support funded by UNDP.

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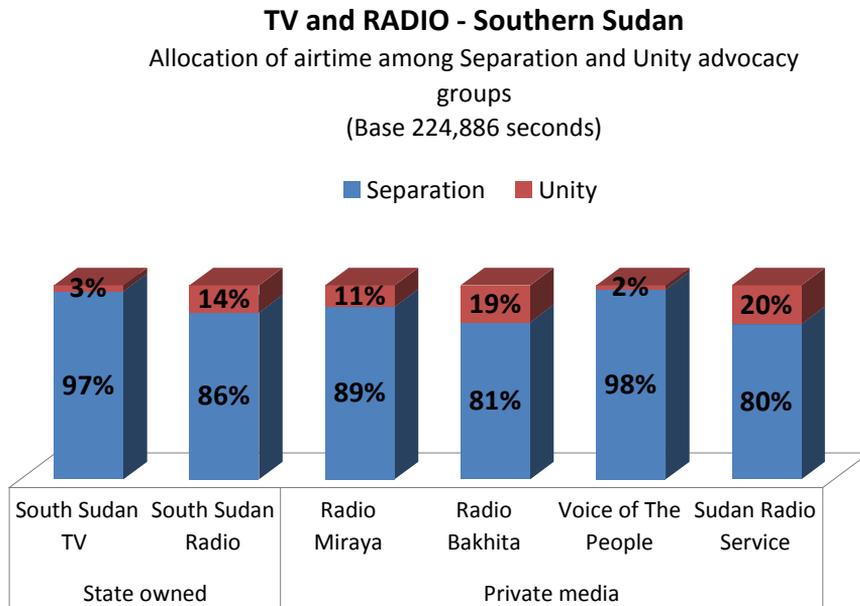
### *Monitoring of the Media Coverage of the Referendum*

The EU EOM media monitoring<sup>92</sup> results indicate a polarisation of media coverage of the two referendum options: extensive and pro separation coverage of the Referendum in the south and subdued and pro unity coverage in Northern states. The media campaign in rural areas was quite limited.

Electronic media coverage in the south was largely favourable to the cause of separation, with barely any presence of pro unity arguments in *Southern Sudan TV*, which devoted 97 per cent of its airtime to subjects standing for separation. The state-owned *Southern Sudan Radio* allotted 86 per cent to the same group along with private radio stations which dedicated to pro separation subjects between a minimum of 80 per cent, *Sudan Radio Service*, to a maximum of 98 per cent by *Radio Voice of the People*. Media houses admitted that their coverage was not balanced but in favour of separation only; according to them this was due to the difficulty to find individuals and groups supporting unity or their unwillingness to freely express their view when interviewed for fear of possible persecution from supporters of secession. In an environment where the pro unity campaign was almost completely absent, debate on the consequences of secession or the continued unity of Sudan was drowned out, and instead, the general pro separation campaign message focused on a voter mobilisation campaign to maximise voter turnout.

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<sup>92</sup> The EU EOM monitored a sample of media outlets from both South and North from 17 December to 7 January. Monitored media were 2 TV stations (South Sudan TV, Sudan TV), 7 radio stations (South Sudan Radio, Radio Miraya, Radio Bakhita, Sudan Radio Service, Voice of the People, Omdurman Radio, Khartoum State Radio) and 9 newspapers (The Citizen, Khartoum Monitor, Sudan Tribune, The Democrat, Juba Post, Sudan Vision, Al Sahafa, Al Ray Al Aam, Al Ajiras Hurria).



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The EU EOM observed a generally low coverage of the Referendum in the northern electronic media<sup>94</sup> with the media campaign focused on pro unity messages reflected by a vast majority of airtime devoted to pro-unity subjects: 81 per cent on *Sudan TV*, 81 per cent on *Omdurman Radio*<sup>95</sup> and 88 per cent on *Khartoum State Radio*.

The media monitoring results for print media in the northern states confirm a one sided pro unity coverage with a higher percentage in two of the most widely distributed Arabic newspapers: 78 per cent on *Al Sahafa* and 89 per cent on *Al Rau Al Aam*, and lower coverage in the English language state-owned daily *Sudan Vision*, which devoted to pro unity subjects 72 per cent of its space. *Al Ajiras Hurria*, an Arabic newspaper close to southerners' position

<sup>93</sup> Advocacy groups are composed of institutions and political parties' representatives, civil societies and individuals supporting the separation or unity option.

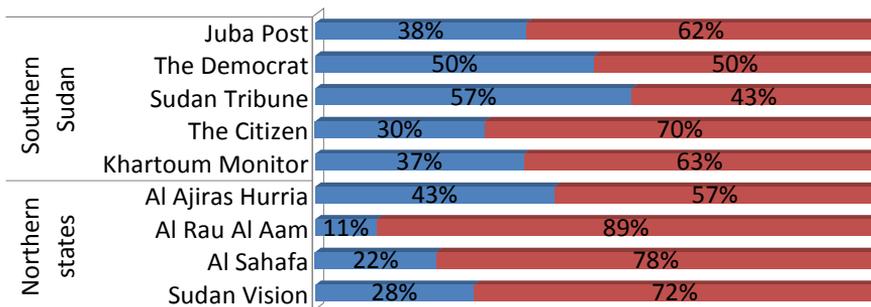
<sup>94</sup> Northern electronic media included in the sample are all part of the state run Sudan Radio and Television Company (STRC) which has *de facto* a monopoly of the broadcast sector. However, a large radio audience in the Northern states listen to international radio stations such as BBC World Service Arabic.

<sup>95</sup> Omdurman Radio is the most important national radio and can be heard throughout all the country on short wave.

was the newspaper which devoted to pro unity actors less coverage, at 57 per cent.

In contrast, some of Southern Sudan print media devoted more coverage to pro unity subjects, specifically *Khartoum Monitor* 63 per cent, *The Citizen* 70 per cent and *Juba Post* 62 per cent. This result is not a consequence of a pro unity editorial line but the outcome of a number of factors: mismanagement in their Khartoum offices resulting in the failure to publish articles covering Southern Sudan stories; a limited pro separation media campaign run by the Southern Sudan ruling party, SPLM, the subject that in the campaign for the general elections in 2010 received most press coverage in the south, and finally, very high coverage devoted to the visit to Juba of President Omar Al Bashir, who enjoyed an aggregate 22 per cent of total Referendum coverage in the southern print media.

**PRINT MEDIA**  
**Southern Sudan and Northern states**  
 Allocation of space among Separation and Unity  
 advocacy groups  
 (Base 297,397 cm<sup>2</sup>)  
 ■ Separation ■ Unity



The agenda of the Referendum media coverage in Southern Sudan was dominated by two topics: “Referendum campaign” and the “Referendum administration and organisation”. These two topics respectively received coverage of 64 and 27 per cent on *South Sudan TV*; 47 and 36 per cent on

*South Sudan Radio*; and 49 and 39 in Southern private radio stations.<sup>96</sup> The print media,<sup>97</sup> in addition to the mentioned topics, devoted considerable coverage to “Institutional arrangements after the referendum.” In the northern electronic media<sup>98</sup> “Referendum campaign” was the main topic. Conversely to the southern media, the second most important topic was not the actual organisation and administration of the referendum but the “Institutional arrangements after the referendum.” This latter topic, moreover, was the most covered in the northern print media,<sup>99</sup> with 29 per cent of the total coverage: it included a debate on the future relations between the northern states and Southern Sudan as well the debate on consequences to the northern political arena after the possible secession of Southern Sudan.

The Referendum administration bodies (namely SSRC, SSRB and State High Committee members) received free and consistent coverage and access to state and private media to inform voters on Referendum procedures, while they received less coverage for partial results announcements during the counting and aggregation process. The main electronic media to cover them were *Sudan TV* and *South Sudan TV*, respectively with 30 and 28 per cent of Referendum administration bodies coverage, followed by *UN Radio Miraya* with 18 per cent. The Referendum administration bodies received 31 per cent of their press coverage in the *Juba Post*, while the rest of its coverage was scattered among all other newspapers.

The SSRC Independent Media Committee organised two media workshops, in Khartoum on 22<sup>nd</sup> December, 2010, and in Juba on 6<sup>th</sup> January, 2011. They were meant to be an occasion to give further guidelines on the Referendum coverage: workshops mainly focused on the role of the media to enforce a peaceful environment for the Referendum rather than in an appeal for a balanced coverage of the two Referendum options. SSRC organised also two public debates with representatives of NCP and SPLM, the first in Khartoum on 29<sup>th</sup> December, 2010, and the latter in Juba on 5<sup>th</sup> January, 2010, but none of

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<sup>96</sup> Radio Miraya, Radio Bakhita, Radio Voice of the People and Sudan Radio Service.

<sup>97</sup> Print media in the South (The Citizen, Khartoum Monitor, Sudan Tribune, Juba Post and The Democrat) focused their coverage on “Referendum Campaign” 28 per cent, “Referendum administration and organisation” 24 per cent and “Institutional arrangements after referendum” 20 per cent.

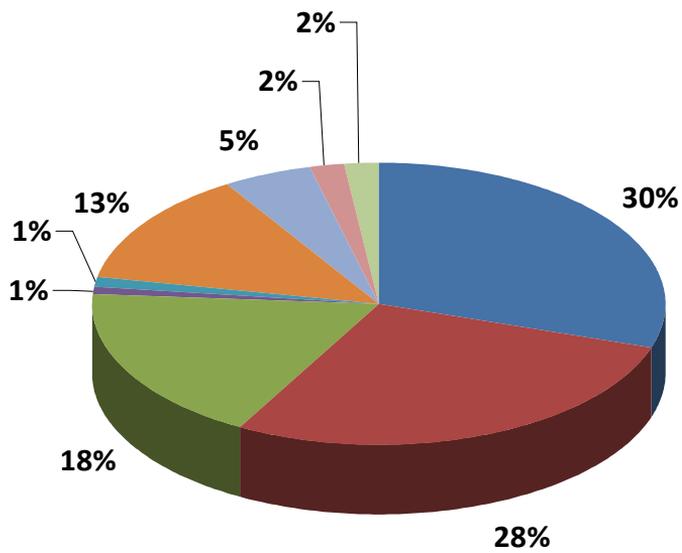
<sup>98</sup> Sudan TV devoted 52 per cent to “Referendum Campaign” and 19 per cent to “Institutional arrangements after referendum”, while radio stations allotted respectively 27 and 24 per cent to the first and second topic.

<sup>99</sup> Northern print media focused mainly on “Institutional arrangements after referendum”, with 29 per cent of their coverage followed by the “Referendum campaign” with 25 per cent.

them was entirely broadcasted by national media and they received limited coverage by news media.

**Referendum Management Bodies coverage**  
**TV and RADIO**  
(Base 29,506 seconds)

- South Sudan TV (South)
- Radio Miraya (South)
- Radio Voice of the People (South)
- Sudan TV (North)
- Khartoum State Radio (North)
- South Sudan Radio (South)
- Sudan Radio Service (South)
- Radio Bakhita (South)
- Ombdurman Radio (North)

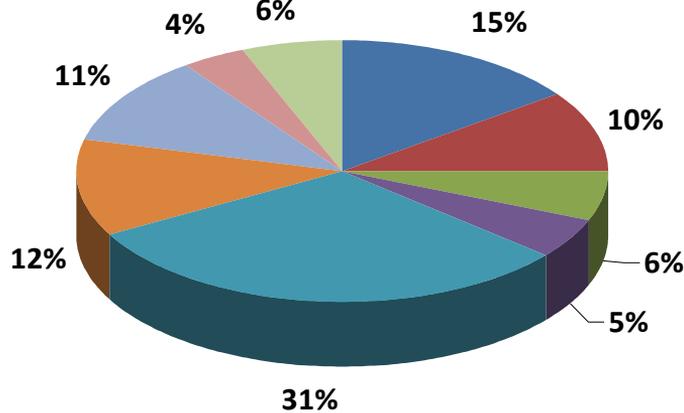


### Referendum Management Bodies coverage

#### PRINT MEDIA

(Base 19,274 cm<sup>2</sup>)

- The Citizen (South)
  - The Democrat (South)
  - Juba Post (South)
  - Al Sahafa (North)
  - Al Ajiras Hurria (North)
- Khartoum Monitor (South)
  - Sudan Tribune (South)
  - Sudan Vision (North)
  - Al Rau Al aam (North)



Generally the media campaign was conducted peacefully both in Southern Sudan and in the northern states; media played an important role addressing messages for a peaceful voting period. Politicians and advocacy groups did not generally resort to hate speech or inflammatory language. Nevertheless the EU EOM monitored one Referendum song entitled “Yes for Separation, No for Unity,”<sup>100</sup> that was regularly broadcast on prime time on *South Sudan TV* and in several radio stations, whose lyrics are highly provocative.

<sup>100</sup>The song’s author is the singer John Junub and lyrics containing hate speech are “*Southern Sudan Independence, we don’t need Northerners! Northern Sudan Independence, .you don’t need Southerners! Yes for separation, no for Unity! Give them! Show them! Burn them! Tell them! We don’t want unity. We are tired of the war, we don’t need Sharia law, and we don’t want unity. Southern Sudan makes them fire! John Junub makes them fire! Give them fire!*”

### *The Referendum moratorium period and voting days*

The Referendum silence period started on 8<sup>th</sup> January, 2011, in compliance with Art. 25 of the MCRs.<sup>101</sup> This provision was not respected by most media in Southern Sudan. General messages to mobilise people to vote – and more direct calls to vote for separation as well as pro-separation Referendum songs – were broadcast in several electronic media outlets. Campaigning was also observed within six per cent of Referendum Centres during polling, in breach of regulations. The Referendum campaign also continued in the northern media during polling days. Voter mobilisation became intimidation in the case of Yambio FM (14January), a state owned radio station in Western Equatoria State (already identified).

The speech was broadcast once and did not affect the general media effort to create a peaceful referendum environment, but the EU EOM noted that a similar misuse of the same local state owned radio station occurred during polling in the 2010 elections.

## **XII. THE VOTING AND COUNTING PROCESS**

### *Polling preparations*

Deadlines with regard to the distribution of polling materials were successfully met. The ballot papers, printed in the United Kingdom, were delivered according to schedule, by UNIRED, to the SSRC and SSRB on 22<sup>nd</sup> December. Sensitive and non-sensitive polling materials<sup>102</sup> were further distributed to all ten states of Southern Sudan between 23<sup>rd</sup>– 24<sup>th</sup> December; the non-sensitive materials were immediately dispatched to the counties in most states, while the sensitive materials were delivered to the RCs two or three days before polling. UN air assets, as well as vehicles rented for SSRC/B by UNIRED, were instrumental in ensuring full distribution down to RC level.

RC staff, which consisted of three persons during voter registration, was increased to five for polling. The number of staff was also progressively

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<sup>101</sup>“The advocacy campaign for the one or the other of the two referendum options ends 24 hours before the beginning of the polling date as announced by the Commission.”

<sup>102</sup> The sensitive and non-sensitive polling materials included 7.5 million ballot papers; 8,500 ballot booths; 4,500 polling and training kits (procured and delivered to Juba by IFES), 20,000 polling and counting manuals and 30,000 polling and counting leaflets in English and Arabic and other printed materials (also procured by IFES).

increased for RCs that registered more than 2,000 voters, with the larger centres splitting into two separate stations.

Payment of RC staff in a timely manner, one of the most significant shortcomings identified during voter registration, was, according to SSRB officials, completed for staff in both the northern states and Southern Sudan for the months of November and December, but there was no additional payment for the extension of the voter registration period. Payment of the RC staff for their work during polling was scheduled to be conducted at the end of January. However, EU observers did not witness any significant case of discontent among RC staff regarding payment, and noted the high degree of commitment and professionalism of all involved in the process throughout the country.

During the April 2010 Sudanese elections, the EU EOM had presented polling staff preparation as a significant shortcoming of that cycle, with polling staff performing below standards in as many as 30 per cent of the polling stations observed.<sup>103</sup> Referendum voter registration indicated some progress in this regard, particularly in the north of the country. Training of polling staff for the Referendum showed a welcome emphasis on role-playing. The training lacked some clarity due to in the more sensitive procedures such as how to handle complaints at RC level, how to determine the validity of equivocal ballot paper markings, and how to pack results and other sensitive materials after the completion of RC-level counting. An estimated 70 per cent of the Referendum polling staff had worked as polling staff in the April 2010 elections, however, which was a mitigating factor for some of the shortcomings of the training package.<sup>104</sup>

Referendum preparations were adversely affected, however, by the belated decision to enforce a 40-year age threshold on all personnel. Several persons were laid off without prior notice and financial compensation after the end of the voter registration period, as preparations were underway for the polling period. Otherwise-competent and dedicated staff members were thus excluded from the process. In some states, such as Blue Nile, this was never fully enforced by some SSRC officials who took the practical view that Southern Sudanese birthdates were not reliable and could not be taken as a base to exclude staff members with precious skills and knowledge of the process.

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<sup>103</sup> EU EOM Sudan 2010, Preliminary Statement, pg. 6.

<sup>104</sup> Information provided to the EU EOM by the SSRC Operations Department.

### *Voting days*

Polling took place from 9<sup>th</sup>– 15<sup>th</sup> January, from 8 am to 5 pm. Southern Sudanese voters, for the most part, participated in a determined fashion in extremely high numbers and in a general climate of celebration.<sup>105</sup> Fears about an overwhelming of Referendum Centres on the symbolic first day of polling (9<sup>th</sup> January), did not materialise.

In the northern states, however, the general atmosphere was much more subdued. Movement of Southern Sudanese citizens of voting age from the northern states to Southern Sudan took place before, during and after voter registration, thereby significantly reducing the numbers both of registered voters (particularly women) and of citizens turning up to vote. Whilst the general climate in Southern Sudan was often one of euphoria, Southern Sudanese voters in the northern states often shared with the EU Observers their misgivings about their future in that part of the country.

EU observers made 1,267 separate observations across Sudan, in a total of approximately 800 Referendum Centres. Throughout the country, procedures were much better implemented than during the April 2010 Sudan elections, reflecting, in particular, the unison in which all stakeholders – voters, RC staff, domestic observers and security personnel – appeared to act in ensuring that the Referendum was implemented as well as could be hoped for, thus enhancing the credibility of the inevitable secession vote.

Late changes to the polling and counting regulations, and conflicting instructions given to staff in various parts of the country with regards to, for example, the procedure for dealing with voters with lost Registration Cards, rarely caused procedural errors during polling. EU observers assessed voting as well managed in 76 per cent of RCs, and as poor in only three per cent. They similarly assessed RC staff performance as good or very good in 77 per cent of cases, and as poor in only four per cent. Referendum staff showed commitment, effectiveness and a good command of their role in an overwhelming majority of RCs observed.

Voters' understanding of the basic steps of the voting process, however, was judged as good in only 52 per cent of cases, particularly in the more rural

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<sup>105</sup> See Results section below for detailed turnout figures.

areas of Southern Sudan. This reveals insufficient efforts in both voter education and also in Referendum campaigning.

Sound and well thought-out logistics contributed to the general success of the polling process. Timely opening and closing of RCs was observed every day during polling, and nearly all observed RCs were equipped with all polling materials. In addition, the security of sensitive materials was effectively guaranteed in all cases. Polling material was kept overnight under lock at RCs or at police stations in 60 per cent of RCs observed. They were also under guard, albeit unlocked, in nearly all other cases. EU observers found that that seals were properly used in almost all cases.

There was an unauthorised presence of government officials from the national security service in some key locations, however. In most RCs observed in central Juba and in rural areas around Juba, the presence of GoSS security personnel was conspicuous. They actively controlled the queues and checked Registration Cards. Isolated cases of intimidation of voters occurred, noticeably in the “transitional areas” of Blue Nile and Southern Kordofan, but throughout the country, such indirect intimidation or undue influence on voters accounted for no more than two per cent of the RCs observed. A symmetrical form of pressure on voters was observed in the Southern and northern states: whilst in some Southern localities, EU observers noted that polling staff and/or local authorities were establishing handwritten lists of voters who had not yet voted, in the north, there were observed cases of the reverse, i.e. lists bearing the names of those who had voted. In both cases, these lists could have been used as a means respectively to pressure voters to turn up and to intimidate those who had voted. Overall, unauthorised persons were seen to interfere in the voting process in only five per cent of EU observations.

The small number of procedural violations occurred generally stemmed from inattention by RC staff. Nearly half of all voters were not properly checked for ink. However, EU observers noted on all their visits that voters' fingers were always marked with ink after voting, that the identification officer always verified that the voter was registered in that RC, and that the voter's card was properly punched/cut to prevent multiple voting.

Nevertheless, in almost 29 per cent of RCs visited, the secrecy of the vote was not fully protected, due in some cases to assisted voting. Similarly, Considerations Committees were operational in only 60 per cent of all

observed RCs. Given the poor understanding of the role of these committees by voters, Referendum staff and domestic observers, however, they were very rarely used as an avenue for voters' complaints, except in a very few cases regarding lost cards. Overall, EU observers reported less than one per cent of RCs which had recorded at least one complaint.

The SSRC adopted (10<sup>th</sup> January) an instruction to extend the polling to all northern RCs for one hour. This decision, which the SSRC Chairman explained was devised to enable employed city dwellers to vote after office hours, was not well transmitted throughout the Referendum management structure. This caused confusion in some RCs in Southern Sudan which also extended polling times. The SSRB then decided to also extend polling by one hour on 11<sup>th</sup> January, with effect from 12<sup>th</sup> January. However, this was also not properly disseminated to all RCs, many of which continued to close at 17:00.

In some isolated cases witnessed in the north by EU observers, voters had mistaken voter registration with polling itself, believing that applying their thumbprint on the registration books constituted the act of voting. Numerous other cases were observed in Southern Sudan of voters asking RC Chiefs for detailed explanations on how to vote. This was done to an extent that cast a doubt on the secrecy of the vote in about eight per cent of cases observed. This last resort voter education, performed *in situ* with unusually high levels of RC Chair supervision, was made possible by short queues in most RCs after a few days. It was identified as a key reason for the unusually low numbers of invalid ballot papers recorded in this Referendum (See Results section below).

### *Counting and Tabulation*

Closing, counting and the packing of material – conducted immediately after the close of polls on 15<sup>th</sup> January – took place in a similarly calm and undisturbed atmosphere. The amount of data to be recorded on the results forms and the complex packing instructions issued to the Referendum staff made implementing these crucially important tasks a difficult exercise. It elicited more errors in the application of procedures than polling itself. For instance, packing of the results forms in the appropriate Tamper Evident Bags only took place in 81 per cent of all cases. Similarly, the RC Chairperson only publicly displayed a copy of the results forms outside the RC in 51 per cent of cases observed. In the northern states, a difficulty was added by the fact that materials were marked with Southern Sudan Referendum administration nomenclature, such as “State High Committee” for State Referendum

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Committee and with several mentions of Sub-committees (which did not exist in the northern states). Specific materials, Tamper Evident Bags in particular, could have been produced specifically for the northern states. The RC chair correctly filled out, signed and stamped results forms in just over 88 per cent of observed situations.

However, criteria regarding the validity of ballot papers were correctly applied, with ballot papers considered invalid in 88 per cent of cases where the choice of the voter was unclear, and unstamped ballot papers, occasionally found, were always considered invalid. There was a mood of general agreement and sound co-operation in the overwhelming majority of RCs across the country. In no less than 96 per cent of all cases observed by the EU EOM, there was agreement regarding the qualification of ballot papers as valid or invalid.

Low turnout in Southern Kordofan was explained to EU Observers as a result of the long distances voters had to travel to go to vote (over 20 kilometres in most cases). In this regard, the provision of transport by local authorities and/or political parties was not as much viewed by voters as a form of indirect influence as a welcome facility to enable voting. Women in particular, in Blue Nile and in Khartoum, only turned up en masse once transportation was made available to them.

#### *Complaints at polling and counting*

The Polling and Counting Manual for Referendum Officials was prepared and distributed in early December, in advance of the approval of the regulations for this phase by the SSRC, and set out a proposed new role for the Competent Courts for disputes at polling and counting<sup>106</sup> that was not contemplated in the Act. The second version of the relevant regulations<sup>107</sup> sent disputes arising at polling to the Considerations Committees rather than to the courts, but the list of the issues that could be raised in such objections was too limited, and excluded, for instance, objections about the method of applying ink, or the presence of unauthorised persons at the RC. The Consideration Committees were ultimately only operational for 60 per cent of RCs observed by the EU EOM. The Committees were often inaccessible and information on their role was not made available to voters. Reports indicate that they were only used in

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<sup>106</sup> Page 11 of the Polling and Counting Manual for Referendum Officials.

<sup>107</sup> Regulations on Polling, Sorting, Counting and Declaration of Results. 29<sup>th</sup> December

a very small number of cases and almost always concerning problems with lost registration cards.

A notable absence from the Regulations on Polling, Sorting, Counting and Declaration of Results was any objections process for the sorting, counting and declaration stages, although such was required by the Act.<sup>108</sup> This means that there was no mechanism to air a dispute about important questions such as the application of the criteria for determining the invalidity of ballots.

### *Conclusions of the international and domestic observation missions*

Most observer groups issued their Preliminary Statements during the period 16<sup>th</sup>– 21<sup>st</sup> January. There was widespread consensus on the main findings concerning the polling and counting period, which all groups observed. In particular, there was a near general praise for the work of the SSRC and SSRB “considering the short timeline that the Referendum was implemented in,”<sup>109</sup> to such an extent that its implementation was “hard to imagine...a mere three months earlier.”<sup>110</sup> In its 18<sup>th</sup> January Statement to the Security Council, the Chairperson of the Secretary-General’s Panel on the Referenda in Sudan<sup>111</sup> reported “that the process so far has been conducted in a peaceful and transparent manner that allowed the people of Southern Sudan to express their will freely.” The Carter Center similarly assessed the process as “broadly consistent with international standards for democratic elections” and the “genuine expression of the will of the electorate.” The African Union Observer Mission noted “that the Referendum was conducted in accordance with the CPA and SSRC guidelines,” that the “environment was peaceful, secure and orderly”, and that it was “free, fair and credible, and indeed a true reflection of the democratically expressed will of the people of Southern Sudan.” The League of Arab States judged the Referendum polling to be “characterised by a high degree of transparency” and “in line with international standards.” The East African Intergovernmental Authority on Development’s (IGAD) assessment on polling was that the Referendum process was “free, fair and credible” and a “major milestone in promoting peace and democratic transformation of Southern Sudan.”

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<sup>108</sup> Section 38(7) says that ‘regulations shall determine the procedure for submitting and recording objections during the processes of sorting, counting and declaration of results’.

<sup>109</sup> Statement from Al-Khatim Adlan Centre for Enlightenment, Al Massar, and the National Civic Forum on their Observation of the Southern Sudan Referendum, pg. 2.

<sup>110</sup> Statement to the Security Council by the Chairperson of the Secretary-General’s Panel on the Referenda in Sudan, pg. 1.

<sup>111</sup> Benjamin Mkapa, former President of Tanzania

IGAD also covered the legal and regulatory framework of the Referendum, which was deemed to be “generally conducive to the holding of a credible Referendum,” the Referendum management bodies, which “exhibited a very high degree of preparedness,” the campaign environment “of peace and non-interference” and voter registration, for its “accuracy.” The Japan Referendum Observation Mission to Sudan noted the “substantial support extended by the international community” including, inter alia, UNIRED and IOM, to the “smooth implementation of the Referendum.

The Carter Center and IGAD both noted shortcomings in the voter information campaign. The former noted in particular that this “contributed to the voters’ limited understanding of the process and curtailed their ability to make informed decisions about the impact of unity versus secession.” IGAD however judged that “it did not have any significant effect on the voters’ choice.” Regarding irregularities, the Carter Center “reported widespread instances of assisted voting for illiterate and poorly educated voters in Southern Sudan,” albeit “well intentioned by officials and desired by the voters.” The League of Arab States noted that “some voters were underage.” The Japanese Referendum Observation Mission also observed “some technical issues such as the poor circulation of the SSRC’s directions” and “lack of transportation of voters living in remote areas.”

The three groups supported by the Carter Center Domestic Observers Program in the north, namely Al-Khatim Adlan Centre for Enlightenment, Al Massar and the National Civic Forum, “did not report any patterns of major incidents such as vote tampering or malfeasance.” They did, however, report that “one per cent of centres observed in the North noted major irregularities,” particularly, “three reports of underage voting and two reports of alleged proxy voting.” In Southern Sudan, their sister organisation SuDEMOP, which observed in 71 out of 79 counties, found that the process was carried out well and that voters had been well informed through the media and community leaders. SuDEMOP concluded that the Southern Sudanese people had been able to express their will freely in the Referendum.

SuNDE and SuGDE noted some “important shortcomings,” such as “a few troubling reports of officials misunderstanding the right of observers in the South,” “campaigning in and around RCs,” and “reports of unauthorised security and other personnel...particularly in White Nile, Southern Kordofan and Upper Nile.” However, “none of the shortcomings undermine the credibility of the Referendum process.”

All observer organisations reported on the excellent level of training displayed by RC staff in implementing polling procedures and praised the SSRC and SSRB for their high degree of operational preparedness and general transparency. All concurred in recognising that by the third day of polling, all impending technical and logistical issues at RC-level had been resolved.<sup>112</sup>

For the announcement of preliminary findings, the three groups supported by the Carter Center, within the scope of the Organisation of Humanitarian Voluntary Work Act 2005,<sup>113</sup> had to provide the Humanitarian Affairs Council (HAC) with the full report in advance and to commit to not digress from the report's contents during the question and answer sessions.<sup>114</sup> This constituted an impediment to a free public appraisal of the process.

### **XIII. RESULTS**

#### *Overview of results aggregation and announcement procedures*

The Act gave the results processing and announcement tasks to:

- the individual Referendum Centres, who were tasked to publish the results from that Centre upon the completion of the counting prior to forwarding to the County-Sub Committee (Southern Sudan) or directly to the SSRC (northern states and OCV);<sup>115</sup>
- the County Sub-Committees (Southern Sudan), who were tasked with compiling all the results from the RCs within the County and announcing them at county level prior to forwarding to the State High Committee;<sup>116</sup>
- the State High Committees (Southern Sudan), who were tasked with compiling all of the County-level results within the state and

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<sup>112</sup> A lone dissenting opinion was voiced by the "Association of World Citizens" (AWC), a Geneva-based group. It reported numerous breaches of electoral procedures, threats by RC staff against its observers, and a general lack of transparency which undermined the credibility of the Referendum. When contacted by the EU EOM in Khartoum, the AWC coordinator for Sudan could not provide their Press Statement and referred to their Geneva office for any information request.

<sup>113</sup> Often referred to as the NGO law. It does not apply in Southern Sudan where a similar registration system is applied on an administrative basis.

<sup>114</sup> The HAC requires domestic civil society groups to apply for an approval for public events such as domestic observer mission press events.

<sup>115</sup> Section 40[1].

<sup>116</sup> Section 41[1][a].

announcing them at state level prior to forwarding them to the SSRB;<sup>117</sup>

- the SSRB, tasked with aggregating and announcing the state-level results received from the SHCs, and;<sup>118</sup>
- the SSRC, who were tasked with announcing both the Preliminary Results for the Referendum, after receipt of the results for Southern Sudan and the other locations (Section 41[1][d]), and, following the disposal of appeals against the results in any individual RCs that could be lodged with either of the supreme courts within 7 days, accommodate the outcome of successful court appeals and declare the Referendum Final Results within 30 days of the closing of polls.<sup>119</sup>

#### *EU EOM lower-level results aggregation observations*

The EU EOM observed the aggregation of results at every level of the Referendum administration until the publication of Preliminary Results. The aggregation of results at County Sub-Committees in Southern Sudan was positively assessed in 72 per cent of cases, while in the northern states it reached 93 per cent. Intake of sensitive material from the RCs was properly carried out in nearly 90 per cent of observed cases in the southern County Sub-Committees and in 100 per cent of the northern State Referendum Committees. RC Chairpersons submitted their results forms in person in nearly 90 per cent of all cases observed in the South and in all 100 per cent of all RCs in the observed northern State Referendum Committees. The percentage of the material submitted to the County Sub-Committees varied per state, due to transportation problems.

Furthermore, the results announced at the thirty RCs where the EU EOM observed the count differed from the final results published on the SSRC results website in only one case.<sup>120</sup>

#### *Appeals at the results declaration stage*

The Act provided jurisdiction for appeals against the declared Preliminary Results in the National Supreme Court in Khartoum (NSC) and also in the

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<sup>117</sup>Section 41[1][b]

<sup>118</sup>Section 41[1][c].

<sup>119</sup>(Section 44[1].

<sup>120</sup> RC code 211042 in Bor, where, for example, EOM observers recorded 2,392 votes for secession, as opposed to 4,465 announced on the SSRC website.

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Supreme Court of Southern Sudan (SCSS) in Juba.<sup>121</sup> Only voters could lodge an appeal, however, and more importantly, an appeal could only be lodged against the result in the Referendum Centre in which that person voted. There was no provision for a general appeal against the overall Preliminary Results on the grounds, for example, that the Act was not complied with, or that the method of aggregation was flawed, or that the SSRC calculated the threshold incorrectly. This is a significant failing of the Act. The Act also did not set out the *grounds* for appeal, except that the provision<sup>122</sup> for cancellation after a court order is linked to proof that there was corruption regarding the correctness of procedures followed in the relevant Referendum Centre.

The Preliminary Results that were declared by SSRC on 2<sup>nd</sup> February, 2010, were subject to Supreme Court appeals and became final when such appeals were dealt with. The appeal had to be lodged within three days of the preliminary declaration by the SSRC. The Act contemplated that the three day period could have been further expanded upon in regulations but that did not happen. The Supreme Courts had to decide each appeal within seven days of the receipt of the appeal.

If a Supreme Court found corruption regarding the correctness of the procedures in the Referendum Centre concerned in an appeal, they could order the SSRC to cancel the results in that RC and the SSRC would have to re-conduct the Referendum in that RC within seven days of the Supreme Court order. The Act did not give power to the Supreme Courts to order a full or partial recount but it could be argued that this power arose by implication or inherent jurisdiction. It was reported that the NSC took the view that it had the power to order “exclusion” of results in the overall Final Results announcement as opposed to “cancellation” of the results of an individual RC.<sup>123</sup>

The 29<sup>th</sup> December, 2010, regulations also contained a very general power for the SSRC to cancel the results of RCs in the case of “existed corruption” without any need for a court order, or any indication that the Referendum would be re-held in the cancelled RC as is provided for when a cancellation order would come from a Supreme Court.<sup>124</sup> The same Regulations gave the

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<sup>121</sup> Section 2 and Section 42(2).

<sup>122</sup> Section 14(2)(i)

<sup>123</sup> By UNIRED. Despite written requests EUEOM was not granted a meeting with either Supreme Court.

<sup>124</sup> Article 56 of the Regulations for Polling, Sorting, Counting and Declaration of Results.

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SSRC and SSRB a power to “exclude”<sup>125</sup> results “that cannot be verified.” There was no legal basis in the Act for these powers to cancel and exclude, and no legal remedy provided to challenge decisions of the SSRC to exclude or cancel RC results.

#### *Results announcement and analysis of results*

As per the results announcement timetable agreed in the SSRC’s Results Management and Announcement Process document, the County Sub-Committees announced the results at county-level between 16<sup>th</sup>– 20<sup>th</sup> January, and the SHCs announced from 17<sup>th</sup>– 21<sup>st</sup> January. Following the tallying process at these levels, results were moved to the Data Centre for processing. Once the first substantial set of results was processed by the Data Centre in Juba, results from about 98.5 per cent of the Referendum Centres were available on 23<sup>rd</sup> January on the SSRC website.<sup>126</sup> A public results announcement ceremony (not designated as the official Preliminary Results announcement, which had been scheduled for 2<sup>nd</sup> February some weeks previously) was then organised for 30<sup>th</sup> January in Juba, where the results were announced by the SSRC and SSRB Chairmen. Following the announcement of the Preliminary Results on 2<sup>nd</sup> February, no formal complaints were submitted after the publication of the final results. The SSRC was thus free to announce the Final Referendum Results on 7<sup>th</sup> February, 2011.

According to the Final Results Report (7<sup>th</sup> February, 2011), the level of turnout was 97.58 per cent, with 98.77 per cent of voters participating in Southern Sudan, and 72.17 per cent of voters in other locations (the northern states and OCV) participating. The number of voters on which the calculation of turnout figures was made, however, was 3,947,676, which was 15,088 greater than the 3,932,588 voters on the Final Referendum Register announced by the SSRC on 8<sup>th</sup> January. No explanation is given on the Southern Sudan Referendum Final Results Report as to why this is the case.

The Report showed that the “secession” option was chosen by 98.83 per cent of voters that cast valid ballots, with the number of invalid ballots reaching a mere 8,366 of votes cast (0.2 per cent), and the number of blank ballots reaching a mere 6,222 of votes cast (0.16 per cent). As many as 9 of the 79 counties in Southern Sudan showed turnout in excess of 100 per cent.

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<sup>125</sup> Ibid, Articles 49, 53 and 55.

<sup>126</sup> [www.southernsudan2011.com](http://www.southernsudan2011.com)

The results of the Southern Sudan Referendum, in terms of the turnout of voters (97.58 per cent), the percentage of votes for secession (98.83 per cent) and the low number of blank and invalid ballots (0.36 per cent) showed a remarkable similarity with the most recent self-determination referendum to take place in Africa, in Eritrea in 1993, where there was a turnout of 93.9 per cent, 99.83 per cent of valid votes were cast for independence, and where only less than 0.05 per cent of votes were invalid or blank. Similarly, the 1999 East Timor independence referendum showed a turnout of approximately 95%.

The extremely low numbers of invalid and blank votes cast in the Southern Sudan Referendum, however, are concerning, even when one considers the simplicity of the ballot paper.<sup>127</sup> On closer inspection, the percentage of invalid ballots differs considerably between Southern Sudan (0.18 per cent) and the other locations (1.2 per cent), which is over six times the number of invalid ballots per every hundred votes cast. When one considers that literacy levels are believed to be higher in the northern states, and where voter registration staff had completed post-Referendum registration documentation with greater accuracy, suggesting a higher level of confidence with understanding written documents, the far lower rate of invalid ballots in Southern Sudan raises concerns about the level of assisted voting already documented, magnified when one considers that RC staff were under more pressure in Southern Sudan due to the throughput of voters.

#### *Data Centre procedures*

Assigning the lower-level Referendum administration bodies with the role of aggregating and announcing results at their level meant that the SSRC/B was not required by the Act to establish data centres to either aggregate the individual RC results or to conduct accuracy checks or other validation of the results data from the lower-level Referendum administration bodies. Moreover, the choice of the paper-based voter registration methodology did not require the establishment of data centres to process registration forms and build an electronic register, which would have been the case using either OMR forms or digital registration kits, for example.

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<sup>127</sup> Some international work on this issue suggests that rates of invalid ballot papers for simple voting processes (first past the post single option ballot papers) exceed one per cent, see <http://votenoav.wordpress.com/2010/12/06/invalid-votes-fptp-vs-av/>.

Nevertheless, even without the need for building an electronic voter registration database, the use of appropriate modern information technology to, for example, aggregate and publish website lists of registration centres/polling centres and election results down to polling centre level, etc., has become such a standard feature of internationally-supported electoral processes in recent years as to represent best practice. IFES (primarily) and UNIRED, therefore, assisted the SSRC/B with the establishment of Data Centres in Khartoum and Juba, designing both the Data Centre procedures, training the Centre staff and providing both hardware and custom-made software for the documentation of registration data and the results processing tasks. The SSRC produced two (undated) explanatory pamphlets on the “Results Management and Announcement Process” (one page) and a detailed “Data Centre Overview” (four pages) which increased the transparency of the work of the Data Centres.

With results announced by the lower-level Referendum administration bodies prior to the results reaching the Data Centres for overall aggregation and analysis, however, it opened up the possibility that the Data Centres, through automatic triggers established in the data systems, etc., would detect aggregation/tabulation errors either made by a) Referendum Centre Chairpersons, in tallying the results for their RC, and/or b) the lower-level Referendum Administration bodies in their tallying of the results at their level. It is also opened up the possibility that errors that were made at the close of voter registration, in the completion of the R5 Data Entry Forms, would show up in the event that the eventual number of votes cast at an RC exceeded the number of voters recorded as having registered there at the close of voter registration.

In anticipation of a large number of results forms with problematic data (mirroring the experience from voter registration), therefore, and specifically as a means to eventually avoid having to investigate large numbers of cases where there was excess voter turnout, IFES and UN staff advised the SSRB/C to set a policy in advance of the results aggregation process whereby only Referendum Centres that recorded votes in excess of 105 per cent of the number of voters registered at the Referendum Centre would be investigated.

The EU EOM believes that on this matter, SSRC/B were poorly advised by their international partners. Setting a policy in advance that states that polling centres in voting process, be it referenda or elections, with turnout in

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excess of 100 per cent would be tolerated without investigation sets a bad precedent and could encourage electoral fraud in future electoral processes, not just in Sudan but in the region. The decision of the SSRB not to investigate all excess turnout cases resulted in a series of negative articles by international media houses (Reuters, Financial Times, AP and The Economist) in the week prior to the provisional results announcement in Juba on 30 January, questioning SSRB's willingness to be seen to be tackling what could have been electoral fraud.

In discussions with senior UNIRED, IFES and SSRB officials, the argument was put to the EU EOM that in reality, the registration data forms returning from the field following voter registration were so poorly completed as to render the term "number of voters registered at the RC" to be obsolete in favour of the more accurate "number of voters presumed to be registered at the RC." In effect, an RC showing turnout in excess of 100 per cent, particularly in an environment where the overall participation was as close to 100 per cent, or in a huge number of RCs was actually 100 per cent, was given the benefit of the doubt that the excess turnout was as a result of a) errors in the tabulation of results, or that b) the number of voters recorded as registered there from the data entry of the R5 forms after registration contained errors.

With the publication of the Final Results on 7<sup>th</sup> February, SSRC, to their credit, admitted that 267 RCs – in excess of 10 per cent of all RCs in Southern Sudan – had exceeded 100 per cent turnout. According to the "greater than 105 per cent" policy, into which category 27 Referendum Centres fell, the investigation of these centres took place over an approximately 7-day period, in advance of the provisional results announcement in Juba on 30<sup>th</sup> January. In all cases, SSRB officials told the EU EOM that errors had been made in the completion of the voter registration data that understated the number of voters registered at the RC. Results from these centres, therefore, were included in the Final Results tally, with, presumably, the changed number of total voters registered for the Referendum announced on 7<sup>th</sup> February reflecting the corrections from the 27 centres. SSRB and their international advisors from UNIRED and IFES, therefore, are fully confident that the remaining 240 centres, had they been investigated, would have unearthed similar errors in recording of registration data, and that no fraudulent activity would be detected. Although they argue that this would appear to vindicate the 105 per cent policy in retrospect, it does, however, highlight the errors that the remaining 240 RCs are assumed to contain. It would appear, at the

conclusion of the process, that SSRC does not know for sure how many voters were registered for the Referendum.

The Referendum results were generally accepted across the political spectrum, with, most crucially, President Bashir stating on state TV, on the date of the announcement of the Final Results (7<sup>th</sup> February), that "we accept and welcome these results because they represent the will of the southern people." First Vice-President of Sudan, and Southern Sudanese President Salva Kiir stated that "the (freedom) of the south is not the end of the road, because we cannot be enemies. We must build strong relations." US President Barack Obama congratulated the people of Southern Sudan for "a successful and inspiring" referendum, saying the US intended to formally recognise Southern Sudan in July. UN Secretary General Ban Ki-moon urged the international community "to assist all Sudanese towards greater stability and development."

#### **XIV. RECOMMENDATIONS**

Due to the nature and result of the Southern Sudan Referendum, and noting the existing recommendations made to the Khartoum authorities from the April 2010 general elections EU EOM Final Report, all recommendations made hereafter are to the authorities in the new post-independence state in Southern Sudan.

##### *Democratic environment*

1. The Southern Sudanese authorities should promote the development of Southern Sudan as a modern, pluralistic, democratic state based on the rule of law and with respect for human rights and the primacy of the rights of citizens to choose their government through regular, free elections. Protection of freedom of movement, freedom of association, and freedom to express one's political views should be enshrined in both the Constitution and law.
2. A draft political parties law should be submitted to the new post-independence South Sudan Legislative Assembly (SSLA) that establishes the criteria for political party registration in Southern Sudan, including such matters as membership thresholds, legal personality, requisite commitments to peaceful platforms and non-use of violence, etc.

3. A political parties registration commission should be established under the political parties law, with membership and powers established by that law.
4. An eventual draft electoral law should include a provision requiring groups wishing to contest elections as political parties to pre-register with the political parties registration commission.

*Electoral law and electoral management*

5. Important steps should be followed with a view to properly organising future elections, starting with the establishment of: an independent and permanent electoral management body (EMB) with the task of setting policy and managing elections at all levels in Southern Sudan, the adoption of an Electoral Law, the conduct of a census and the setting up of a functioning civil registry authority (to be used as the basis for a future voter register).
6. GoSS should seek the advice of regional bodies such as the Electoral Institute for the Sustainability of Democracy in Africa (EISA) and international think tanks such as International IDEA in designing the EMB and determining what elements on electoral management design should be included in the draft Electoral Law to be submitted to the new Southern Sudan Legislative Assembly (SSLA), and which electoral system should be chosen that best assists the development of a pluralistic polity. With regards to electoral management design, at the very least, the draft law should consider the following elements:
  - a. Whether the EMB should be separate from and institutionally outside any other Government Ministry/agency (as is the case in the majority of African countries);
  - b. Whether the EMB should consist of a Board of Commissioners and a full-time Secretariat;
  - c. In the event that a Board of Commissioners are appointed, should they be proposed by Parliamentary Committee, or by Presidential Decree, or for approval by Parliament upon the proposal of the President, or proposed by political groups represented in the SSLA, etc.;
  - d. The minimum criteria for consideration as an Electoral Commissioner;

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- e. Whether electoral Commissioners, where created, should be full-time or part-time officials;
  - f. Whether electoral Commissioners, where created, should enjoy immunity from prosecution in the execution of their tasks;
  - g. The powers of Commissioners, where created, *vis-à-vis* Secretariat senior staff;
  - h. How the head of the Secretariat would be appointed;
  - i. Whether the head of the Secretariat would be an ex-officio or voting member of the Commissioners;
  - j. Whether the EMB has a regional structure and full-time regional officials;
  - k. The extent of the EMB's power, including, for example, whether it has authority to organise and manage all elections, including, for example, local authority elections, or whether it has power in the area of campaign finance regulation, media campaign regulation, etc.;
  - l. The exact role of the EMB versus the civil registry and national statistics authority with regards to voter registration;
  - m. How the work of the EMB is funded, and whether the EMB has the right, by law, to propose its annual budget directly to Parliament.

Due to the experience gained in implementing the Referendum in an efficient manner, and as a bridge between the SSRC/SSRB and the future electoral management body in Southern Sudan, it may be wise for the SSLA to consider enacting legislation to extend the mandate of a slimmed-down SSRB as an interim body until such time as a new, permanent electoral management body is created and in a position to formally take responsibility for its powers as codified in law. The function of the interim body would be to offer a) advice to legal drafters on the operational consequences of proposed elements of the future electoral law, b) to archive all operational planning documents, equipment, polling materials, etc., of both the SSRC and the SSRB to be used as resource materials for the future electoral management body, and c) to train a core group of electoral administrators (current SSRB staff) on electoral administration, electoral justice and democratic governance and the place of elections and electoral management bodies in same.

*Citizen documentation and voter registration*

7. Pending the successful outcome of post-Referendum talks with the north regarding citizenship, the future Government of the independent Southern Sudan state should enact a citizenship law, and include in both it and the draft electoral law, the establishment of basic voter eligibility for participation in elections at all levels. Ethnic or tribal criteria should be avoided in determining voter eligibility. Current or recent residence rather than family history should be the central criterion.
8. The future Government should conduct a new census as soon as is feasible following independence in order to accurately count its citizens, which will also take proper account of the recent moves of southerners from the northern states to Southern Sudan.
9. The authority in charge of national statistics should either establish or continue existing means to analyse census data in order to take account of birth/fertility/mortality rates, etc., as a means to accurately project population trends and movements in inter-census years.
10. Armed with a new census, the future GoSS should establish a functioning civil registry/national ID card system, using modern digital technology. The civil registry should be constructed in a manner, and with the appropriate national and regional infrastructure, that allows GoSS to link data from hospitals, morgues and traditional leaders in order to constantly update all births, deaths and name change data. National ID cards should be issued to all citizens upon reaching the age of 16, re-issued every 10 years, where the citizen is required to both approach the civil registry for card issuance and also to inform the civil registry of residence changes.
11. In advance of the first electoral cycle post-independence, the future electoral management body of Southern Sudan should liaise with both the national statistics authority and the future civil registry body to use both updated census and civil registry data to accurately estimate the requirement for both voter registration and polling locations. The standard of one registration/polling centre for every 2000 voters should continue to apply, with the proviso that no village with a

population exceeding 500 expected eligible voters should be more than 5km from a registration/polling location.

12. Depending on the future election system established by the GoSS for parliamentary and local-level elections, an extensive boundary delimitation exercise should be conducted. As a first step, the electoral management body should conduct a draft exercise, using the census data that respects the international standard of one elected representative per equal number of citizens. The second step should involve a wide consultative process on the initial draft that allows stakeholders such as traditional leaders to comment on the appropriateness of the proposed boundaries and to take proposed changes into account.
13. Once boundary delimitation is completed, the future electoral management body can approach the first voter registration for the first electoral cycle in one of two ways. Under the first “passive” option, the civil registry body could generate the draft voter register automatically from the civil registry data, using the residence/address data in the civil registry and the list of registration/polling centres to assign voters automatically to polling centres. An extensive exhibition period should follow the publication of the register in order to allow citizens to check whether they have been included in the register, and to make claims for inclusion or reassignment to more appropriate polling centres. This is the preferred option. Under such a system, there is no need for the issuance of voter registration cards, as the national ID card will be used to identify voters on polling day.
14. Under the second “active” option, and in particular if issuance of national ID cards has not been rolled out nationwide in time for the first electoral cycle, the electoral management body could launch a voter registration exercise that requires citizens to attend a voter registration centre in order to register to vote and to be assigned to a polling centre, and in order to be issued with a voter card. As with the first option, an extensive exhibition period should follow, to allow voters to make claims for inclusion, or changes in their registration data, or to object to the inclusion of another voter. The principle of “you vote where you register” should be applied under this option.
15. Under either scenario, the final voters register for the first set of elections should be made publicly available sufficiently far in advance

of the vote to allow for civil society bodies to conduct an audit and publish their findings.

#### *Electoral legal remedies*

16. There should be a formal dispute resolution mechanism at all stages of electoral processes, including at polling and counting. That mechanism should be well publicised, accessible, formally recorded and admissible at (although not an essential requirement for) a later court appeal. This mechanism should allow for appeals against all decisions of the electoral management body.
17. To achieve an effective legal remedy in an electoral process it should be possible to mount a challenge against the overall result, not just against the result at individual polling sites. The powers of the court in a challenge to order re-counts, total or partial exclusion of ballots, cancellation of results or total or partial re-runs should be specifically addressed in the draft electoral law.

#### *Voter and civic education*

18. Extensive civic and voter education programmes, using civil society bodies, should be conducted in advance of the passing of the draft electoral law in order to educate citizens on, among other issues:
  - a. the primacy of independent electoral management and the proposed role for the EMB in the draft law;
  - b. the duties and responsibilities of voters;
  - c. the duties and responsibilities of elected representatives;
  - d. the proposed election system in the draft law;
  - e. the proposed roadmap towards parliamentary and presidential elections;
  - f. the role of the civil registry and its role in voter registration.
19. Civic and voter education should be carried out in local languages and/or dialects rather than just in English and Modern Standard Arabic.

#### *Rights of election observers*

20. The duties, rights and responsibilities of domestic non-partisan observers and political party agents should be clarified by the draft

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electoral law, and different requirements for accreditation should be applied.

21. Observers should have full and unlimited access to all stages of the election process, including counting and tabulation of results as well as the work of electoral data centres.

#### *Media and campaign finance regulation*

22. The legal framework for all elections should contain a restriction on the use of state resources in campaigning.
23. Media campaign regulations (MCRs) should be released prior the official beginning of the campaign period and effectively communicated to all stakeholders: media houses, political parties and civil society organisations actively involved in the campaign.
24. MCRs should have specific rules on airtime allocation in the broadcasting media and an independent media committee should have in place a monitoring system and provide an appeal and complaints mechanism.
25. Southern Sudan needs to approve a long awaited comprehensive media law to cope with the total lack of regulation in the media sector. Media houses should organise themselves in an Association to represent themselves and should be involved in the new media law discussion.
26. Media in Southern Sudan should cover elections and political events more generally, with professionalism and compliance with ethical standards. Such professionalism could be increased through the development of long-term training programmes and academic curricula.

#### *Elections and state security*

27. The use of state security forces to assist with the electoral processes in a logistical and security fashion is to be welcomed and encouraged. State security forces, however, including police, should maintain an institutional and physical separation from electoral events. This includes not checking voter or ID documents, or indeed being present

at voter registration centres/polling centres in a conspicuous and intimidatory manner. The intervention of police and military forces in electoral events should be upon the request of EMB officials only, or where there is a real threat to public order.

28. Public order legislation should apply to electoral campaign events but in a manner that allows maximum discretion for registered political parties/candidates to gather their supporters and communicate their message freely. State security organs charged with granting permission for and policing electoral campaign events and other political gatherings should respect the rights of political groups to campaign freely, and should endeavour to facilitate a level playing field for all parties/candidates.

*Polling, counting and results tabulation*

29. The future EMB should promote the secrecy of vote as paramount in voting processes. To facilitate this, sturdy voting screens should be procured that guarantee that no voter's ballot can be viewed during the marking phase. Polling officials should provide only the most rudimentary advice with regards to informing voters (particularly elderly and illiterate voters) on how to mark their ballots.
30. Regardless of the expected size of the problem, the future EMB should thoroughly investigate all cases where voter turnout exceeds the number of voters recorded as registered at that particular polling location. The EMB's polling, counting and results tabulation procedures should allow for penalty measures against any polling officials established to be engaging in electoral fraud. These measures should also include the possibility to exclude the results from polling locations where it is determined that fraud has taken place.

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**ANNEX 1: LIST OF ACRONYMS**

AU	African Union
ACHPR	African Charter on Human and Peoples' Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CPA	Comprehensive Peace Agreement
EMB	Electoral Management Body
EISA	Electoral Institute for the Sustainability of Democracy in Africa
EU EOM	European Union Election Observation Mission
FRR	Final Referendum Register
GoSS	Government of Southern Sudan
GNU	Government of National Unity
HAC	Humanitarian Affairs Council
ICCPR	International Covenant on Civil and Political Rights
ICSS	Interim Constitution of Southern Sudan
IFES	International Foundation for Election Systems
IGAD	Intergovernmental Authority on Development
INC	Interim National Constitution
IOM	International Organisation for Migration
IRI	International Republican Institute
LAS	League of Arab States
LTOs	Long-Term Observers
MCRs	Media Campaign Regulations
NCP	National Congress Party
NDI	National Democratic Institute for International Affairs
NISS	National Intelligence and Security Services
NSC	National Supreme Court
OAU	Organisation of African Unity
OCV	Out of country voting
PPAC	Political Parties Affairs Council
PRR	Preliminary Referendum Register
RCs	Referendum Centres
SCSS	Supreme Court of Southern Sudan
SDG	Sudanese Pounds
SHCs	State High Committees
SMEC	Sudan Media and Election Consortium
SPLA	Sudan People's Liberation Army

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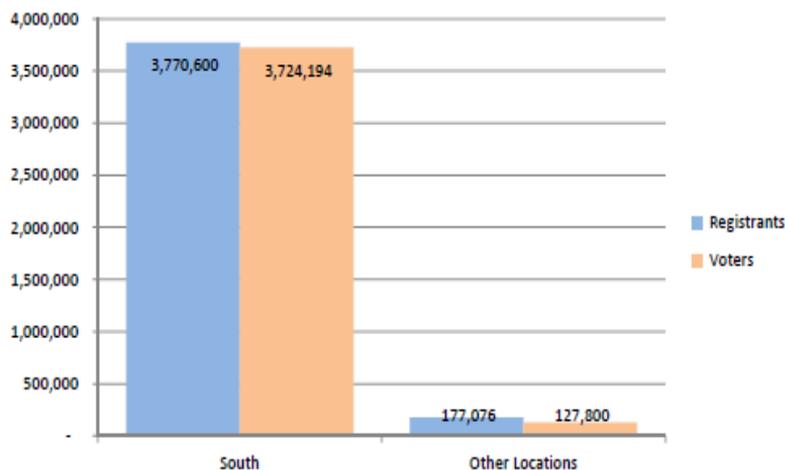
SPLM	Sudan Peoples' Liberation Movement
SSLA	Southern Sudan Legislative Assembly
SSRB	Southern Sudan Referendum Bureau
SSRC	Southern Sudan Referendum Commission
SuNDE	Sudanese Network for Democratic Elections
SuDEMOP	Sudan Domestic Election Monitoring and Observation Programme
SuGDE	Sudanese Group for Democratic Elections
USAID	United States Agency for International Development
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNIRED	United Nations Integrated Referendum and Electoral Division
UNMIS	United Nations Mission in Sudan
UNSG-P	United Nations Secretary General's Panel on the Referenda in Sudan

**ANNEX 2: EXTRACT OF FINAL RESULTS REPORT OF THE SOUTHERN SUDAN  
REFERENDUM COMMISSION**

**Turnout Report**

*Overview*

Regions	Registrants	Voters	Turnout %	Absentee	Absent %
South	3,770,600	3,724,194	98.77%	46,406	1.23%
Other Locations	177,076	127,800	72.17%	49,276	27.83%
<b>Grand Total</b>	<b>3,947,676</b>	<b>3,851,994</b>	<b>97.58%</b>	<b>95,682</b>	<b>2.42%</b>



Turnout: Southern Sudan States

States	Registrants	Voters	Turnout %	Absentee	Absent %
Central Equatoria	469,987	457,439	97.33%	12,548	2.67%
Eastern Equatoria	468,499	463,706	98.98%	4,793	1.02%
Jonglei	436,304	430,056	98.57%	6,248	1.43%
Lakes	300,399	299,040	99.55%	1,359	0.45%
Northern Bahr El Ghazal	387,336	382,049	98.64%	5,287	1.36%
Unity	504,116	498,231	98.83%	5,885	1.17%
Upper Nile	352,601	347,390	98.52%	5,211	1.48%
Warrap	470,368	469,648	99.85%	720	0.15%
Western Bahr El Ghazal	165,492	162,594	98.25%	2,898	1.75%
Western Equatoria	215,498	214,041	99.32%	1,457	0.68%
<b>Grand Total</b>	<b>3,770,600</b>	<b>3,724,194</b>	<b>98.77%</b>	<b>46,406</b>	<b>1.23%</b>

Turnout: Southern Sudan Counties

County	Registrants	Voters	Turnout %
<b>Central Equatoria</b>	<b>469,987</b>	<b>457,439</b>	<b>97.33%</b>
Juba	224,993	216,242	96.11%
Kajokeji	46,473	46,277	99.58%
Lainya	24,308	24,203	99.57%
Morobo	43,354	42,565	98.18%
Terekeka	43,377	43,261	99.73%
Yei	87,482	84,891	97.04%
<b>Eastern Equatoria</b>	<b>468,499</b>	<b>463,706</b>	<b>98.98%</b>
Budi	39,010	38,300	98.18%
Ikotos	57,026	57,125	100.17%
Kapoeta East	61,495	59,464	96.70%
Kapoeta North	46,776	46,741	99.93%
Kapoeta South	44,339	44,274	99.85%
Lopa/Lafo	73,850	73,739	99.85%
Magwi	79,312	77,411	97.60%
Torit	66,691	66,652	99.94%
<b>Jonglei</b>	<b>436,304</b>	<b>430,056</b>	<b>98.57%</b>
Akobo	38,385	38,202	99.52%
Ayod	37,171	36,938	99.37%
Bor	68,749	68,621	99.81%
Duk	21,026	20,852	99.17%
Fangak	35,503	32,968	92.86%
Nyirrol	30,031	29,602	98.57%
Pachalla	33,855	33,671	99.46%
Pibor	88,455	88,306	99.83%
Pigi Canal	25,260	23,216	91.91%
Twic east	20,782	20,675	99.49%
Uror	37,087	37,005	99.78%
<b>Lakes</b>	<b>300,399</b>	<b>299,040</b>	<b>99.55%</b>
Awerial	24,662	24,543	99.52%
Cueibet	46,358	46,155	99.56%
Rumbek Central	53,290	52,898	99.26%
Rumbek East	37,515	37,534	100.05%
Rumbek North	11,904	11,884	99.83%
Wulu	20,619	20,535	99.59%
Yirol East	53,280	53,153	99.76%
Yirol West	52,771	52,338	99.18%
<b>Northern Bahr El Ghazal</b>	<b>387,336</b>	<b>382,049</b>	<b>98.64%</b>
Aweil Centre	15,100	15,038	99.59%
Aweil East	181,128	176,345	97.36%
Aweil North	54,995	54,949	99.92%
Aweil South	42,320	42,134	99.56%
Aweil West	93,793	93,583	99.78%
<b>Unity</b>	<b>504,116</b>	<b>498,231</b>	<b>98.83%</b>

Abiemnhom	5,894	5,863	99.47%
Guit	81,845	81,607	99.71%
Koch	22,632	22,591	99.82%
Leer	63,823	63,877	100.08%
Mayiendit	71,915	69,386	96.48%
Mayom	81,081	80,364	99.12%
Panyijiar	46,482	46,471	99.98%
Pariang	74,889	72,514	96.83%
Rubkona	55,555	55,558	100.01%
<b>Upper Nile</b>	<b>352,601</b>	<b>347,390</b>	<b>98.52%</b>
Akoka	6,174	6,154	99.68%
Baliet	9,778	9,775	99.97%
Fashoda	10,375	10,354	99.80%
Longechuk	40,672	40,730	100.14%
Maba	22,528	22,005	97.68%
Maiwut	57,585	57,552	99.94%
Malakal	59,957	58,013	96.76%
Manyo	12,599	12,361	98.11%
Melut	14,356	14,227	99.10%
Nasir	46,518	46,165	99.24%
Panykang	16,492	16,430	99.62%
Renk	42,244	40,293	95.38%
Ulang	13,323	13,331	100.06%
<b>Warrap</b>	<b>470,368</b>	<b>469,648</b>	<b>99.85%</b>
Gogrial East	62,042	61,941	99.84%
Gogrial West	126,566	126,213	99.72%
Tonj East	58,475	58,267	99.64%
Tonj North	84,831	84,876	100.05%
Tonj South	46,238	46,197	99.91%
Twic	92,216	92,154	99.93%
<b>Western Bahr El Ghazal</b>	<b>165,492</b>	<b>162,594</b>	<b>98.25%</b>
Jur River	62,766	62,503	99.58%
Raga	22,046	21,144	95.91%
Wau	80,680	78,947	97.85%
<b>Western Equatoria</b>	<b>215,498</b>	<b>214,041</b>	<b>99.32%</b>
Ezo	11,858	11,857	99.99%
Ibba	8,025	8,019	99.93%
Maridi	27,732	26,839	96.78%
Mundri East	34,754	34,727	99.92%
Mundri West	16,167	16,075	99.43%
Mvolo	32,294	32,299	100.02%
Nagero	4,059	4,076	100.42%
Nzara	13,477	13,381	99.29%
Tambura	18,705	18,573	99.29%
Yambio	48,427	48,195	99.52%
<b>Grand Total</b>	<b>3,770,600</b>	<b>3,724,194</b>	<b>98.77%</b>

Turnout: Other Location Regions

Regions	Registrants	Voters	Turnout %	Absentee	Absent %
North	116,857	69,597	59.56%	47,260	40.44%
OCV	60,219	58,203	96.65%	2,016	3.35%
<b>Grand Total</b>	<b>177,076</b>	<b>127,800</b>	<b>72.17%</b>	<b>49,276</b>	<b>27.83%</b>

Turnout: Northern States

State	Registrants	Voters	Turnout %	Absentee	Absent %
Al-Gezira	4,495	2,757	61.33%	1,738	38.67%
Blue Nile	7,426	5,412	72.88%	2,014	27.12%
Gadaref	4,189	2,529	60.37%	1,660	39.63%
Kassala	1,694	1,229	72.55%	465	27.45%
Khartoum - Bahri	10,452	6,626	63.39%	3,826	36.61%
Khartoum - Khartoum	11,617	7,960	68.52%	3,657	31.48%
Khartoum - Omdurman	14,667	9,562	65.19%	5,105	34.81%
North Kordofan	9,010	3,942	43.75%	5,068	56.25%
Northern Darfur	2,740	1,627	59.38%	1,113	40.62%
Northern State	1,093	776	71.00%	317	29.00%
Red Sea	1,441	1,079	74.88%	362	25.12%
River Nile	2,190	1,859	84.89%	331	15.11%
Sinnar	5,370	2,169	40.39%	3,201	59.61%
South Kordofan	9,251	4,812	52.02%	4,439	47.98%
Southern Darfur	20,165	9,842	48.81%	10,323	51.19%
Western Darfur	762	567	74.41%	195	25.59%
White Nile	10,295	6,849	66.53%	3,446	33.47%
<b>Grand Total</b>	<b>116,857</b>	<b>69,597</b>	<b>59.56%</b>	<b>47,260</b>	<b>40.44%</b>

Turnout: OCV Countries

Country	Registrants	Voters	Turnout %	Absentee	Absent %
Australia	9,463	9,202	97.24%	261	2.76%
Canada	2,294	2,234	97.38%	60	2.62%
Egypt	3,344	3,259	97.46%	85	2.54%
Ethiopia	7,372	7,198	97.64%	174	2.36%
Kenya	15,057	14,836	98.53%	221	1.47%
Uganda	13,245	12,330	93.09%	915	6.91%
UK	653	640	98.01%	13	1.99%
USA	8,791	8,504	96.74%	287	3.26%
<b>Grand Total</b>	<b>60,219</b>	<b>58,203</b>	<b>96.65%</b>	<b>2,016</b>	<b>3.35%</b>

## Turnout Trends

Center Turnout Distribution - 5% Brackets

Turnout Upper Limit	Count of Centers	%
105.00%	267	9.23%
100.00%	2324	80.33%
95.00%	93	3.21%
90.00%	17	0.59%
85.00%	25	0.86%
80.00%	26	0.90%
75.00%	24	0.83%
70.00%	33	1.14%
65.00%	13	0.45%
60.00%	17	0.59%
55.00%	13	0.45%
50.00%	10	0.35%
45.00%	9	0.31%
40.00%	6	0.21%
35.00%	4	0.14%
30.00%	5	0.17%
25.00%	5	0.17%
20.00%	1	0.03%
15.00%	1	0.03%

### Votes in 5% tolerance

A check within the data entry software ensured that any Referendum Center where more votes were cast than registrants recorded could not be processed, with a 5% tolerance level. All Referendum Centers which failed to pass this check were investigated.

The investigations into Referendum Center results conducted both within the Datacenter and in the field, established that all cases were the result of clerical variances.

As a result of the 5% threshold, and exceptional turnout across most centers, some centers appear to have more votes than registrants however all investigations conducted assure that this is a result of clerical variances.

Turnout Upper Limit	Centers	Votes in 100% to 105%	% Votes between 100% to 105%	
Within 5% Tolerance		267	3011	0.078%

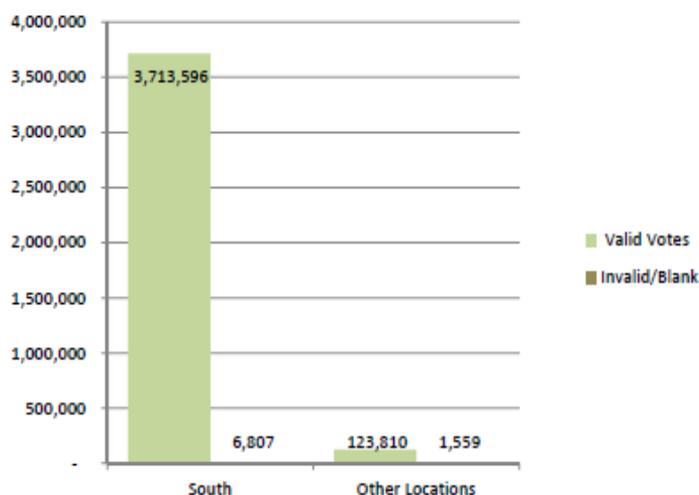
Center Turnout Distribution - 1% Brackets (over 90%)

Upper Limit	Count of Centers	%
105.00%	8	0.28%
104.00%	14	0.48%
103.00%	14	0.48%
102.00%	28	0.97%
101.00%	203	7.02%
100.00%	1984	68.58%
99.00%	146	5.05%
98.00%	79	2.73%
97.00%	57	1.97%
96.00%	58	2.00%
95.00%	39	1.35%
94.00%	27	0.93%
93.00%	11	0.38%
92.00%	7	0.24%
91.00%	9	0.31%
90.00%	5	0.17%
<b>Grand Total</b>	<b>2689</b>	<b>92.9%</b>

## Validity Report

### Valid Votes: Overview

Regions	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
South	3,724,194	3,713,596	3,791	6,807	99.72%
Other Locations	127,800	123,810	2,431	1,559	96.88%
<b>Grand Total</b>	<b>3,851,994</b>	<b>3,837,406</b>	<b>6,222</b>	<b>8,366</b>	<b>99.62%</b>



### Valid Votes: Southern Sudan States

States	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
Central Equatoria	457,439	454,296	1,523	1,620	99.3%
Eastern Equatoria	463,706	462,909	70	727	99.8%
Jonglei	430,056	429,694	124	238	99.9%
Lakes	299,040	298,441	149	450	99.8%
Northern Bahr El Ghazal	382,049	381,375	148	526	99.8%
Unity	498,231	497,567	166	498	99.9%
Upper Nile	347,390	346,486	381	523	99.7%
Warrap	469,648	469,096	120	432	99.9%
Western Bahr El Ghazal	162,594	161,076	728	790	99.1%
Western Equatoria	214,041	212,656	382	1,003	99.4%
<b>Grand Total</b>	<b>3,724,194</b>	<b>3,713,596</b>	<b>3,791</b>	<b>6,807</b>	<b>99.7%</b>

Valid Votes: Southern Sudan Counties

County	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
<b>Central Equatoria</b>	<b>457,439</b>	<b>454,296</b>	<b>1,523</b>	<b>1,620</b>	<b>99.31%</b>
Juba	216,242	214,668	760	814	99.27%
Kajokeji	46,277	46,090	85	102	99.60%
Lainya	24,203	24,044	62	97	99.34%
Morobo	42,565	42,305	77	183	99.39%
Terekeka	43,261	43,180	14	67	99.81%
Yei	84,891	84,009	525	357	98.96%
<b>Eastern Equatoria</b>	<b>463,706</b>	<b>462,909</b>	<b>70</b>	<b>727</b>	<b>99.83%</b>
Budi	38,300	38,280	1	19	99.95%
Ikotos	57,125	57,043	2	80	99.86%
Kapoeta East	59,464	59,424	12	28	99.93%
Kapoeta North	46,741	46,701	3	37	99.91%
Kapoeta South	44,274	44,213	7	54	99.86%
Lopa/Lafo	73,739	73,702	8	29	99.95%
Magwi	77,411	77,020	25	366	99.49%
Torit	66,652	66,526	12	114	99.81%
<b>Jonglei</b>	<b>430,056</b>	<b>429,694</b>	<b>124</b>	<b>238</b>	<b>99.92%</b>
Akobo	38,202	38,152	8	42	99.87%
Ayod	36,938	36,911	-	27	99.93%
Bor	68,621	68,551	43	27	99.90%
Duk	20,852	20,820	16	16	99.85%
Fangak	32,968	32,947	2	19	99.94%
Nyirrol	29,602	29,600	-	2	99.99%
Pachalla	33,671	33,624	15	32	99.86%
Pibor	88,306	88,268	10	28	99.96%
Pigi Canal	23,216	23,179	17	20	99.84%
Twic east	20,675	20,642	13	20	99.84%
Uror	37,005	37,000	-	5	99.99%
<b>Lakes</b>	<b>299,040</b>	<b>298,441</b>	<b>149</b>	<b>450</b>	<b>99.80%</b>
Awerial	24,543	24,527	-	16	99.93%
Cueibet	46,155	46,052	32	71	99.78%
Rumbek Central	52,898	52,646	62	190	99.52%
Rumbek East	37,534	37,423	33	78	99.70%
Rumbek North	11,884	11,873	-	11	99.91%
Wulu	20,535	20,494	16	25	99.80%
Yirol East	53,153	53,114	3	36	99.93%
Yirol West	52,338	52,312	3	23	99.95%
<b>Northern Bahr El Ghazal</b>	<b>382,049</b>	<b>381,375</b>	<b>148</b>	<b>526</b>	<b>99.82%</b>
Aweil Centre	15,038	15,008	15	15	99.80%
Aweil East	176,345	176,024	82	239	99.82%
Aweil North	54,949	54,847	7	95	99.81%
Aweil South	42,134	42,099	3	32	99.92%
Aweil West	93,583	93,397	41	145	99.80%
<b>Unity</b>	<b>498,231</b>	<b>497,567</b>	<b>166</b>	<b>498</b>	<b>99.87%</b>

Abiemnhom	5,863	5,843	10	10	99.66%
Guit	81,607	81,551	16	40	99.93%
Koch	22,591	22,561	9	21	99.87%
Leer	63,877	63,779	20	78	99.85%
Mayiendit	69,386	69,198	39	149	99.73%
Mayom	80,364	80,240	26	98	99.85%
Panyijiar	46,471	46,439	8	24	99.93%
Pariang	72,514	72,436	22	56	99.89%
Rubkona	55,558	55,520	16	22	99.93%
<b>Upper Nile</b>	<b>347,390</b>	<b>346,486</b>	<b>381</b>	<b>523</b>	<b>99.74%</b>
Akoka	6,154	6,150	-	4	99.94%
Baliet	9,775	9,775	-	-	100.00%
Fashoda	10,354	10,332	14	8	99.79%
Longechuk	40,730	40,727	-	3	99.99%
Maba	22,005	21,936	34	35	99.69%
Maiwut	57,552	57,550	-	2	100.00%
Malakal	58,013	57,673	151	189	99.41%
Manyo	12,361	12,291	17	53	99.43%
Melut	14,227	14,213	12	2	99.90%
Nasir	46,165	46,148	5	12	99.96%
Panykang	16,430	16,364	5	61	99.60%
Renk	40,293	39,996	143	154	99.26%
Ulang	13,331	13,331	-	-	100.00%
<b>Warrap</b>	<b>469,648</b>	<b>469,096</b>	<b>120</b>	<b>432</b>	<b>99.88%</b>
Gogrial East	61,941	61,907	12	22	99.95%
Gogrial West	126,213	126,021	39	153	99.85%
Tonj East	58,267	58,204	10	53	99.89%
Tonj North	84,876	84,779	17	80	99.89%
Tonj South	46,197	46,166	7	24	99.93%
Twic	92,154	92,019	35	100	99.85%
<b>Western Bahr El Ghazal</b>	<b>162,594</b>	<b>161,076</b>	<b>728</b>	<b>790</b>	<b>99.07%</b>
Jur River	62,503	62,036	164	303	99.25%
Raga	21,144	20,792	222	130	98.34%
Wau	78,947	78,248	342	357	99.11%
<b>Western Equatoria</b>	<b>214,041</b>	<b>212,656</b>	<b>382</b>	<b>1,003</b>	<b>99.35%</b>
Ezo	11,857	11,825	5	27	99.73%
Ibba	8,019	7,986	10	23	99.59%
Maridi	26,839	26,635	94	110	99.24%
Mundri East	34,727	34,608	23	96	99.66%
Mundri West	16,075	15,883	10	182	98.81%
Mvolo	32,299	32,283	-	16	99.95%
Nagero	4,076	4,061	-	15	99.63%
Nzara	13,381	13,225	2	154	98.83%
Tambura	18,573	18,311	94	168	98.59%
Yambio	48,195	47,839	144	212	99.26%
<b>Grand Total</b>	<b>3,724,194</b>	<b>3,713,596</b>	<b>3,791</b>	<b>6,807</b>	<b>99.72%</b>

Valid Votes: Other Location Regions

Regions	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
North	69,597	65,921	2,230	1,446	94.72%
OCV	58,203	57,889	201	113	99.46%
<b>Grand Total</b>	<b>127,800</b>	<b>123,810</b>	<b>2,431</b>	<b>1,559</b>	<b>96.88%</b>

Valid Votes: Northern States

State	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
Al-Gezira	2,757	2,667	50	40	96.74%
Blue Nile	5,412	4,810	426	176	88.88%
Gadaref	2,529	2,321	100	108	91.78%
Kassala	1,229	1,193	15	21	97.07%
Khartoum - Bahri	6,626	6,355	159	112	95.91%
Khartoum - Khartoum	7,960	7,772	92	96	97.64%
Khartoum - Omdurman	9,562	9,258	199	105	96.82%
North Kordofan	3,942	3,612	188	142	91.63%
Northern Darfur	1,627	1,524	53	50	93.67%
Northern State	776	739	28	9	95.23%
Red Sea	1,079	1,049	18	12	97.22%
River Nile	1,859	1,817	30	12	97.74%
Sinnar	2,169	1,901	156	112	87.64%
South Kordofan	4,812	4,625	92	95	96.11%
Southern Darfur	9,842	9,253	373	216	94.02%
Western Darfur	567	540	16	11	95.24%
White Nile	6,849	6,485	235	129	94.69%
<b>Grand Total</b>	<b>69,597</b>	<b>65,921</b>	<b>2,230</b>	<b>1,446</b>	<b>94.72%</b>

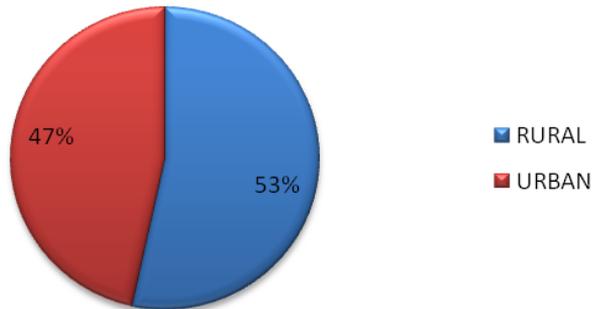
Valid Votes: OCV Countries

Country	Voters	Valid Votes	Blank Ballots	Invalid Ballots	Valid Votes %
Australia	9,202	9,159	18	25	99.53%
Canada	2,234	2,206	24	4	98.75%
Egypt	3,259	3,237	15	7	99.32%
Ethiopia	7,198	7,162	20	16	99.50%
Kenya	14,836	14,754	59	23	99.45%
Uganda	12,330	12,245	54	31	99.31%
UK	640	639	1	-	99.84%
USA	8,504	8,487	10	7	99.80%
<b>Grand Total</b>	<b>58,203</b>	<b>57,889</b>	<b>201</b>	<b>113</b>	<b>99.46%</b>

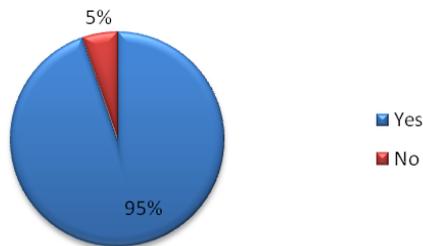
**ANNEX 3: SELECTED OBSERVATION STATISTICS**

*3.1. Polling Statistics for Southern Sudan – single answer questions*

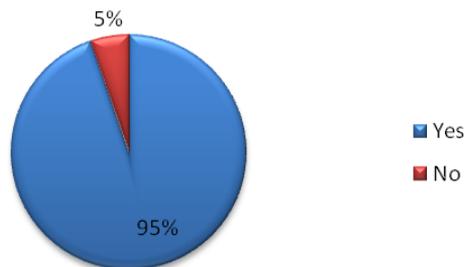
**This RC is**



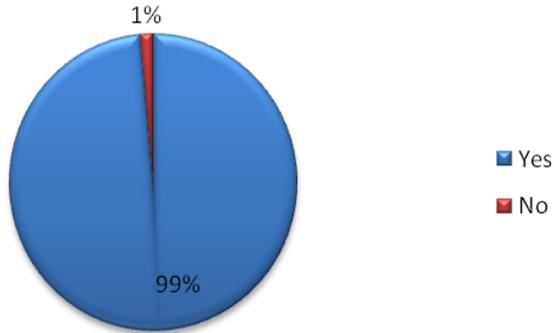
**FIRST DAY OPENING ONLY: Did the RC Chair show the empty ballot box to staff and observers?**



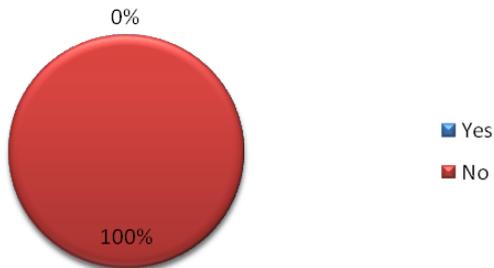
**FIRST DAY OPENING ONLY: Did the observers record the number of the seals on the ballot box?**



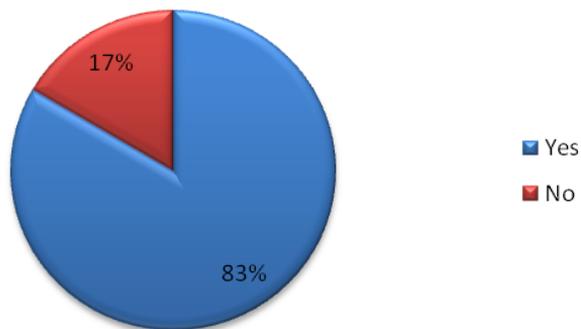
Did the RC Chair use the ballot paper pad used at the end of the previous day?



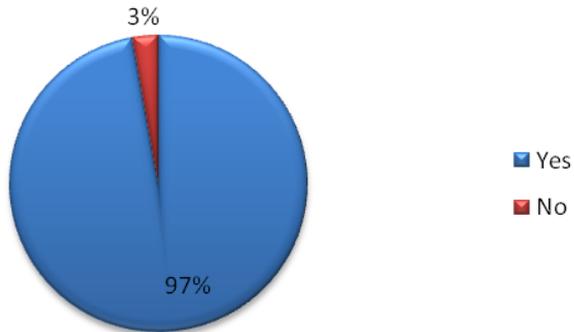
Is the seal number on the ballot box slot the same as observed at closing on the previous day?



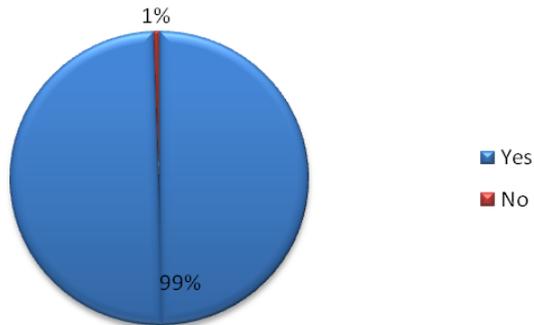
Are all 5 RC staff present at opening?



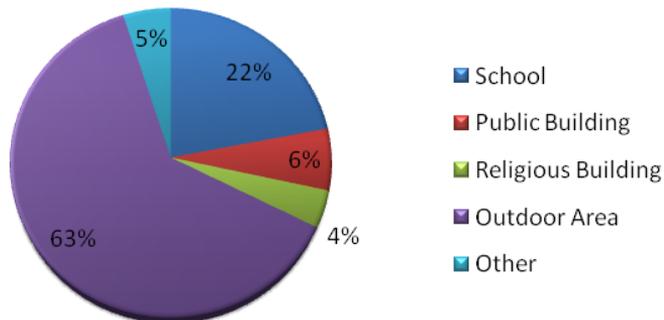
**Are domestic observers/party representatives present at opening?**



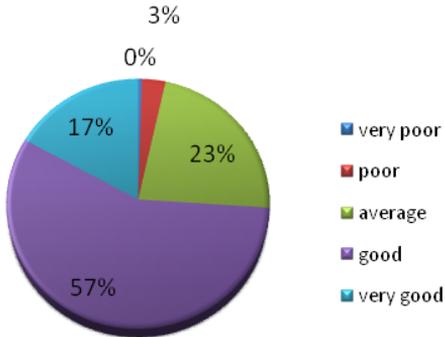
**Is the RC open?**



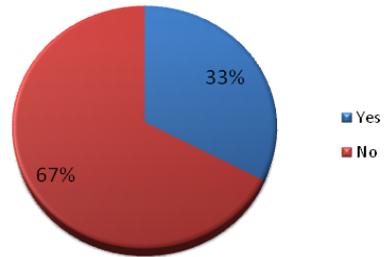
**Where is the RC located?**



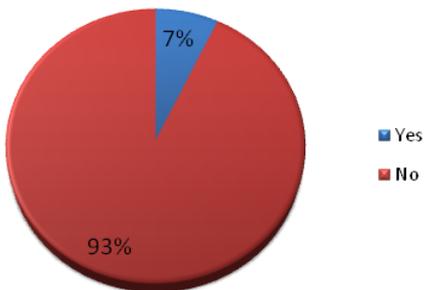
How do you rate the suitability of venue?



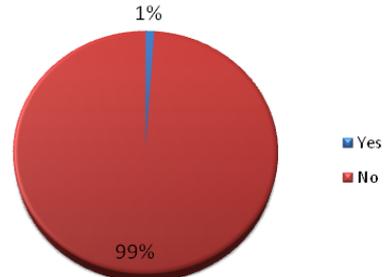
Are there any voter education materials/activities outside the RC (within 50m)?



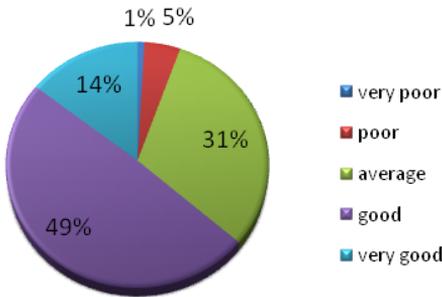
Are there any campaign materials/activities outside the RC (within 50m)?



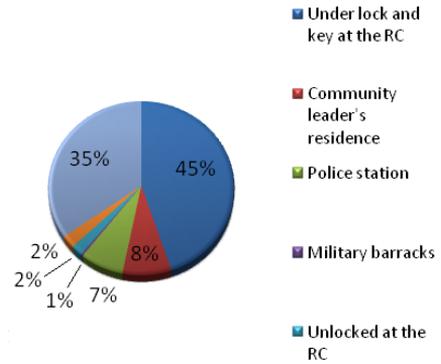
Did you witness any cases of intimidation or undue influence on voters outside the RC?



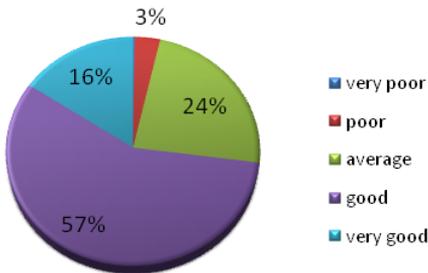
How do you rate the access for disabled voters?



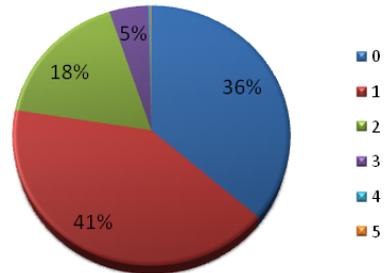
Where are the polling materials kept overnight?



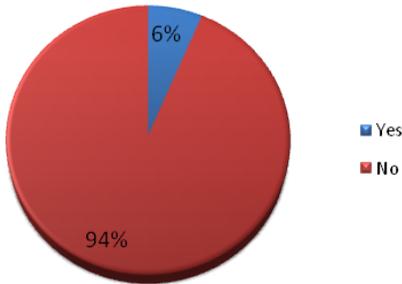
How do you rate the venue layout?



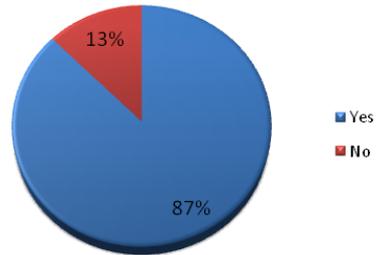
How many RC staff (including the Chair) are female?



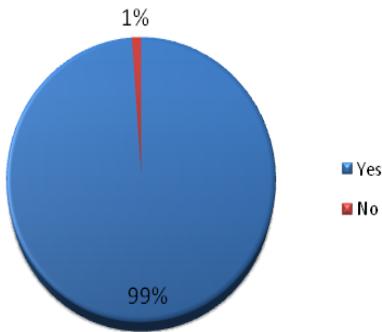
Is the RC Chair a woman?



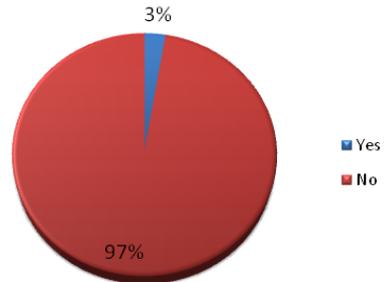
Are all 5 RC staff present?



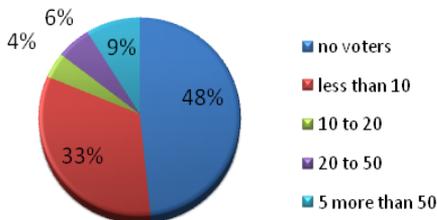
Did all the RC staff receive formal training prior to polling day?



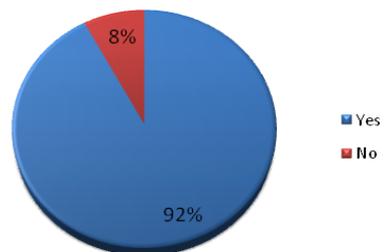
Did you witness any cases of intimidation or undue influence on voters inside the RC?



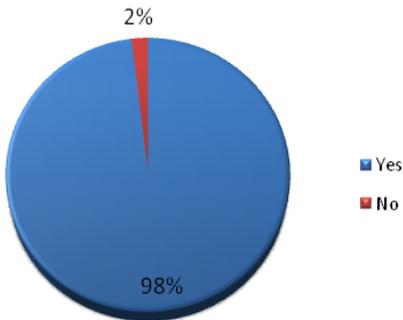
Number of voters in the line



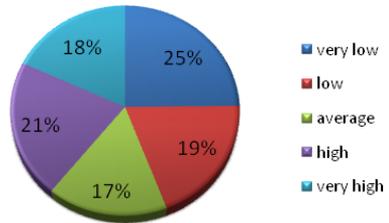
Are RC staff clearly identifiable from other persons in the RC?



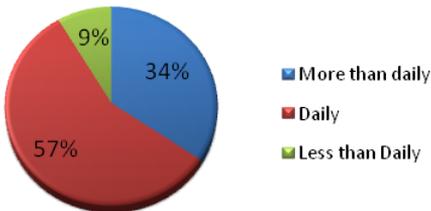
Did the RC open on time today?



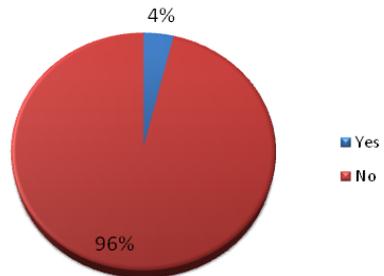
Level of polling activity reported by RC staff:



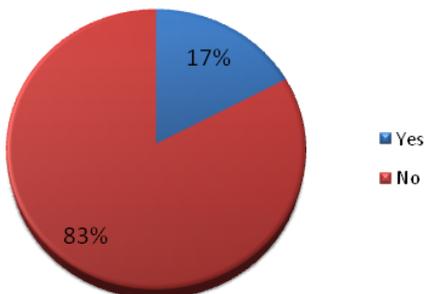
How often are the RC staff in contact with the Sub-Committee/State Referendum Committee?



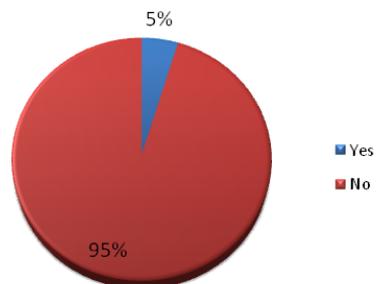
Are there other persons, other than RC staff, actively involved in the voting process?



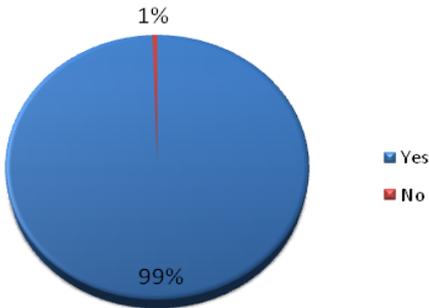
Is there a functioning Consideration Committee for this RC?



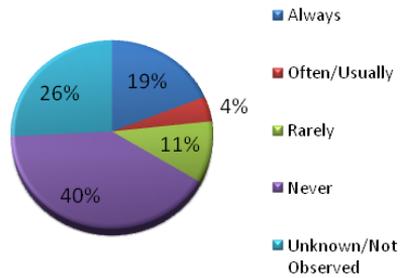
Are any key referendum material missing/not functioning?



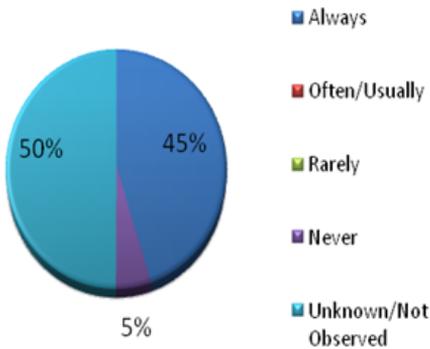
Is the ballot box properly sealed?



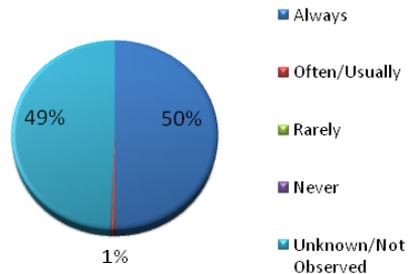
Are voters checked for ink on their finger?



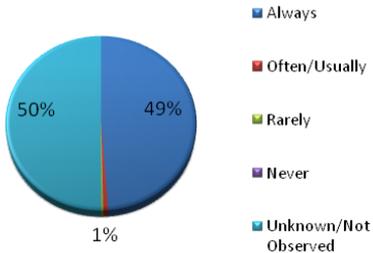
If ink is found on the finger, is the voter turned away?



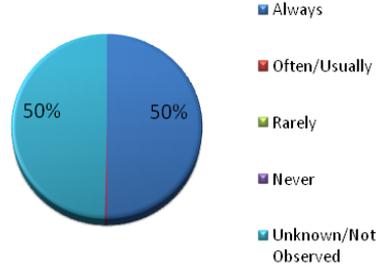
Is the Identification Officer verifying that the serial number of the VR Card matches the serial number in the corresponding Entry in the Final Referendum Register?



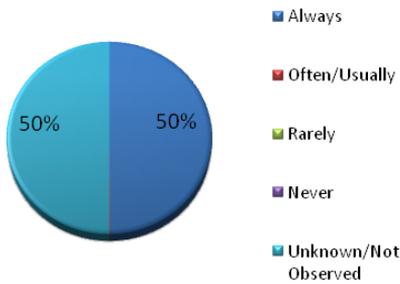
If the serial number of the VR Card is not found in the Registration Book, is the voter turned away?



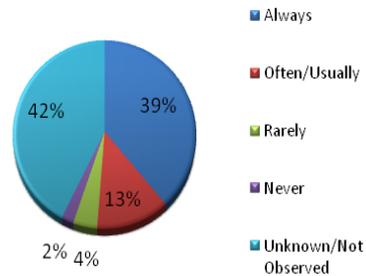
Is the Ballot Paper Issuer punching or cutting the VR Card on the top left corner?



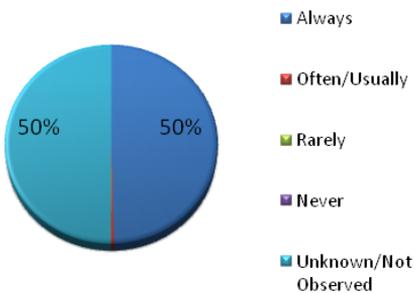
Is the Ballot Paper Issuer stamping the reverse side of the Ballot Paper?



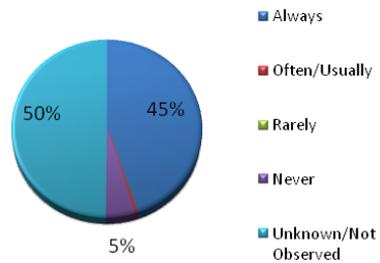
Is every voter marking his/her ballot in secrecy?



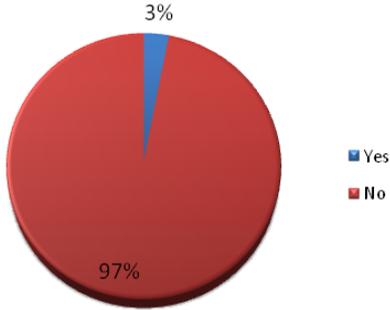
Is the Ballot Paper Issuer marking the voters' finger with indelible ink?



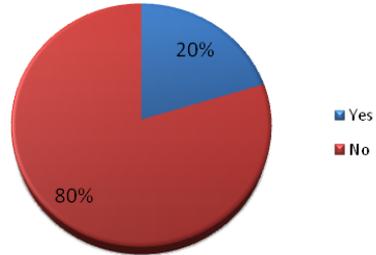
Are voters without Registration Cards turned away?



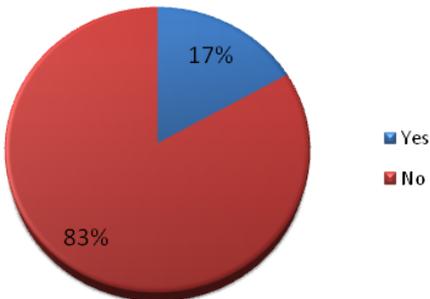
Are any voters without a  
Registration Card allowed to vote?



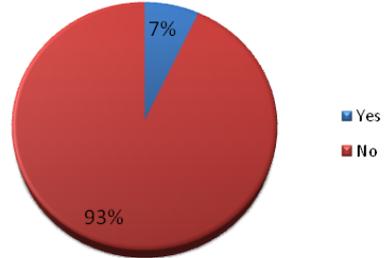
Did the RC receive a list of  
corrections from the County Sub-  
Committee/State Referendum  
Committee?



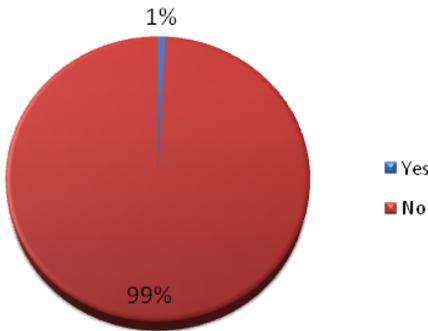
Did the RC receive a list of deletions  
from the County Sub-  
Committee/State Referendum  
Committee?



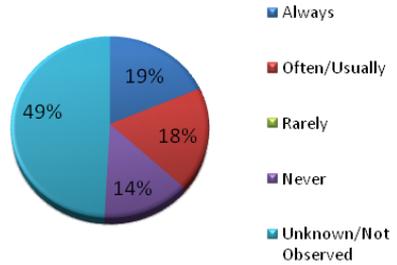
Did the RC receive a list of additions  
from the County Sub-  
Committee/State Referendum  
Committee or the Competent Court?



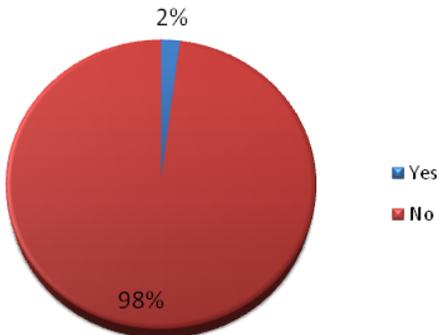
Have there been any complaints registered with the RC up to date?



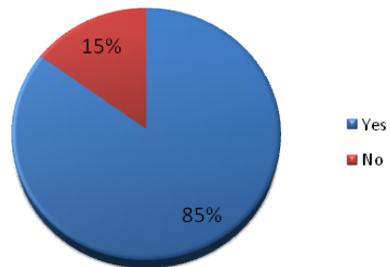
If Yes, are the complaints recorded as laid out in the Polling Regulations?



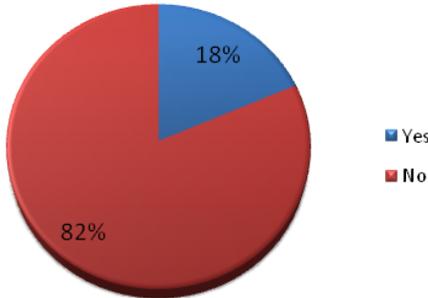
Did you observe group voting (more than one voter in the polling screen)?



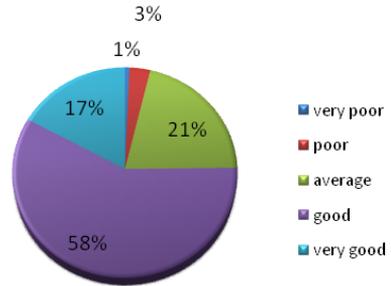
Are people requiring assistance allowed an assistant of their choice?



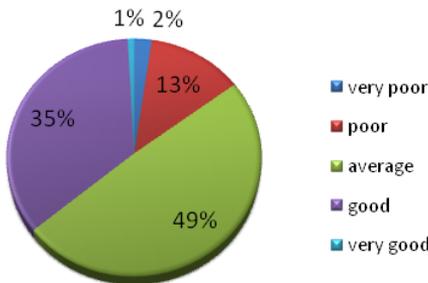
Were any voters turned away and not allowed to vote?



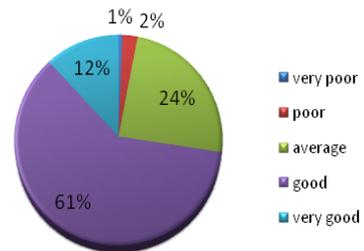
Evaluate the RC's staff implementation of the procedures



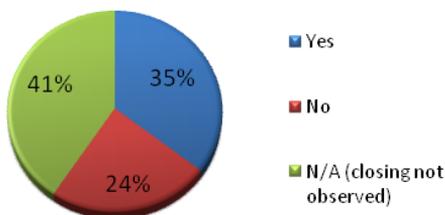
Evaluate the voters' understanding of the procedures



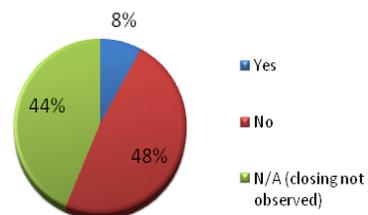
Overall, how do you assess the conduct of the polling at this RC?



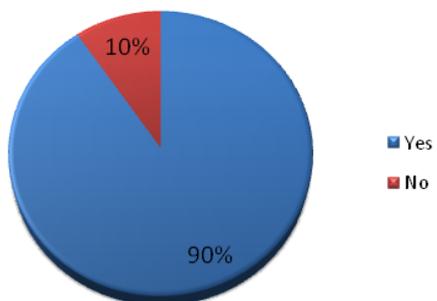
Are people waiting in the queue to vote at 17:00 hours allowed to vote?



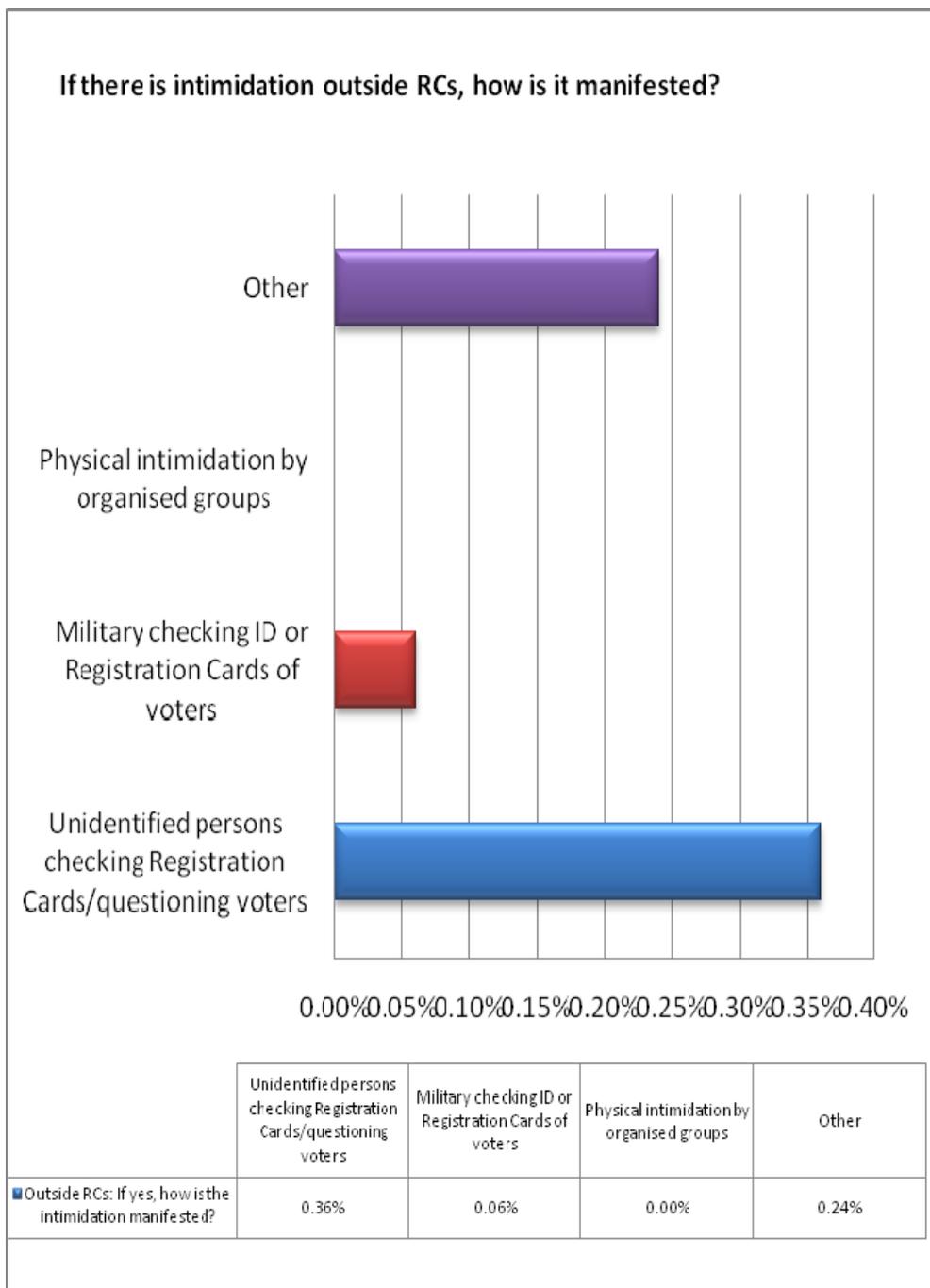
Are people who arrived after 17:00 hours allowed to vote?

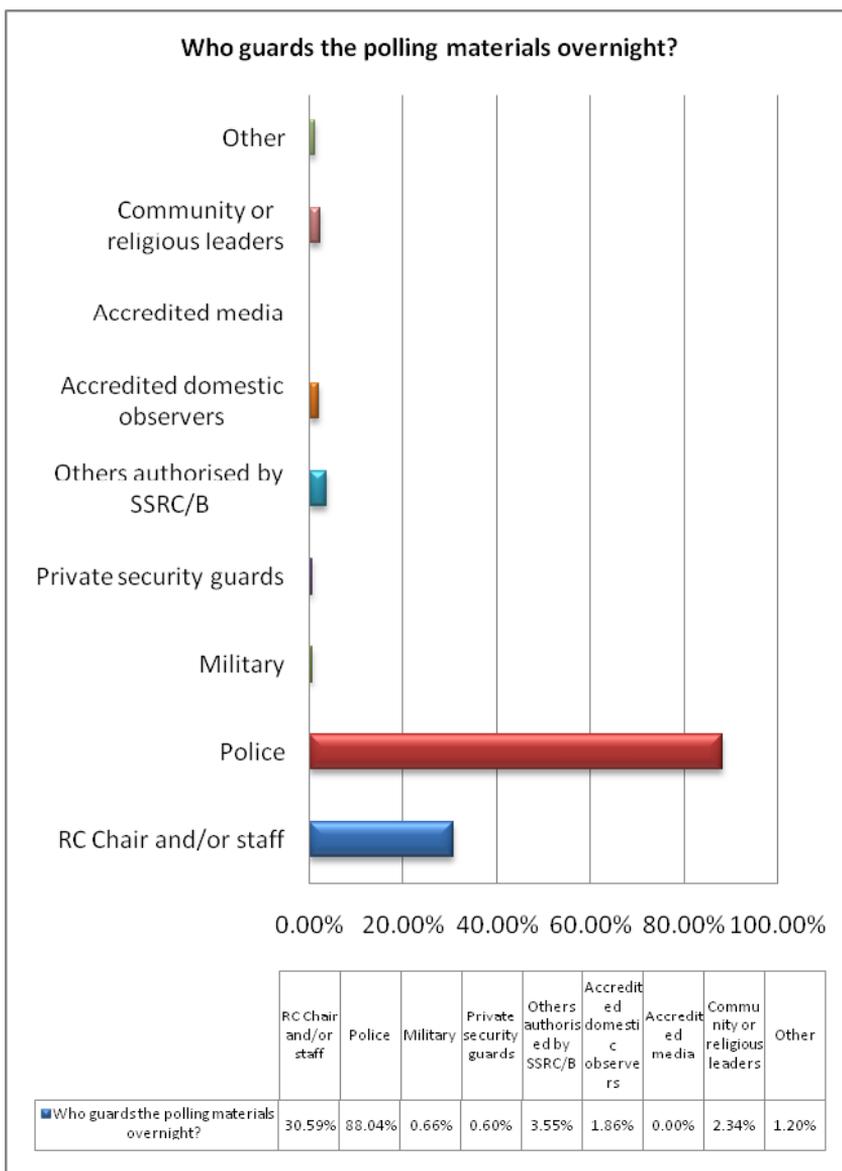


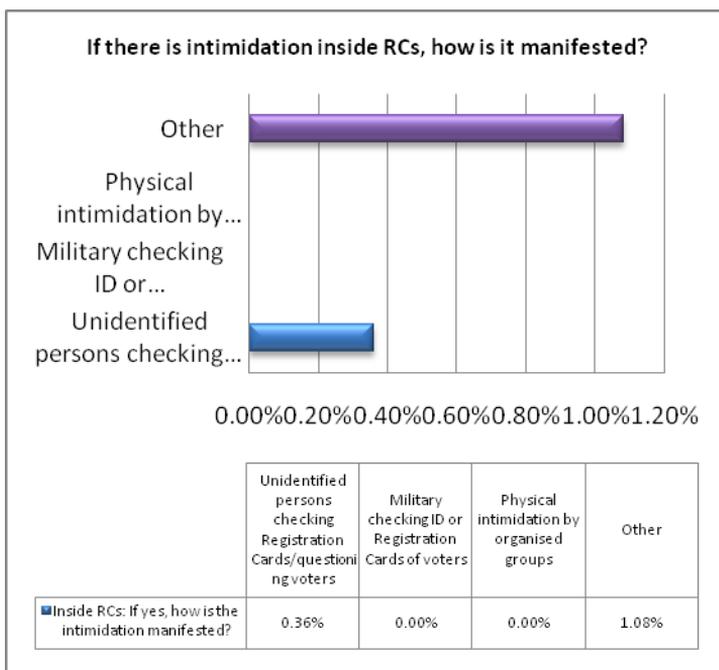
Is the Daily Account of Ballot Papers  
completed correctly?

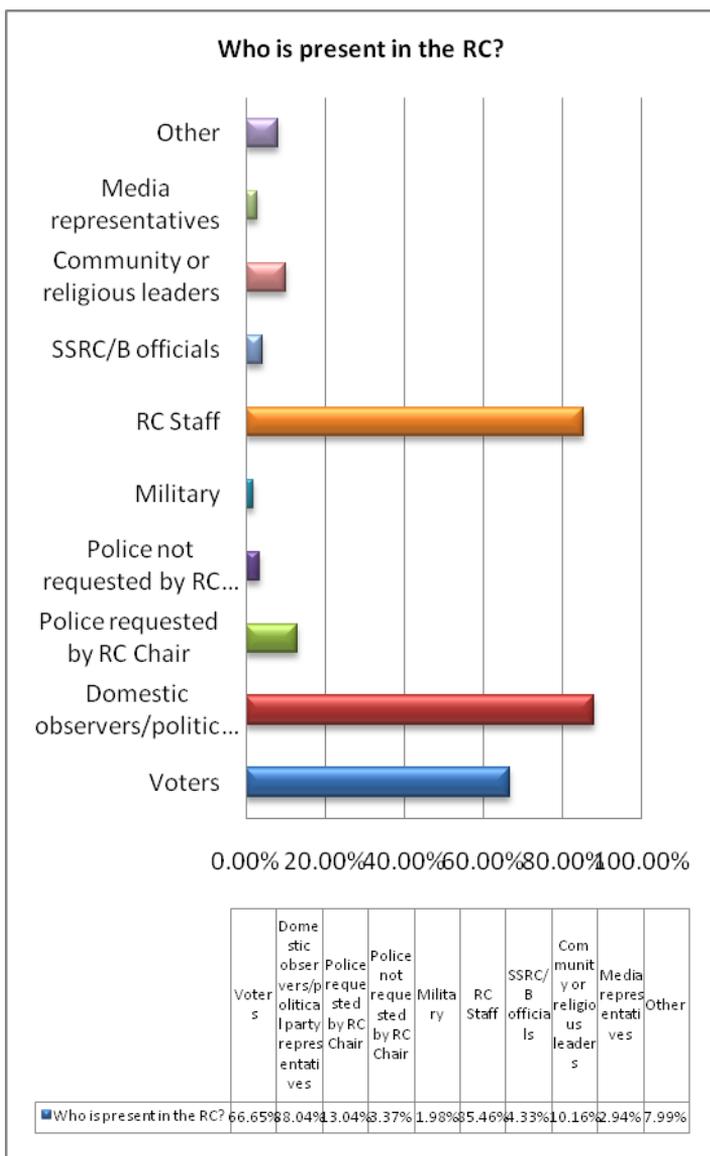


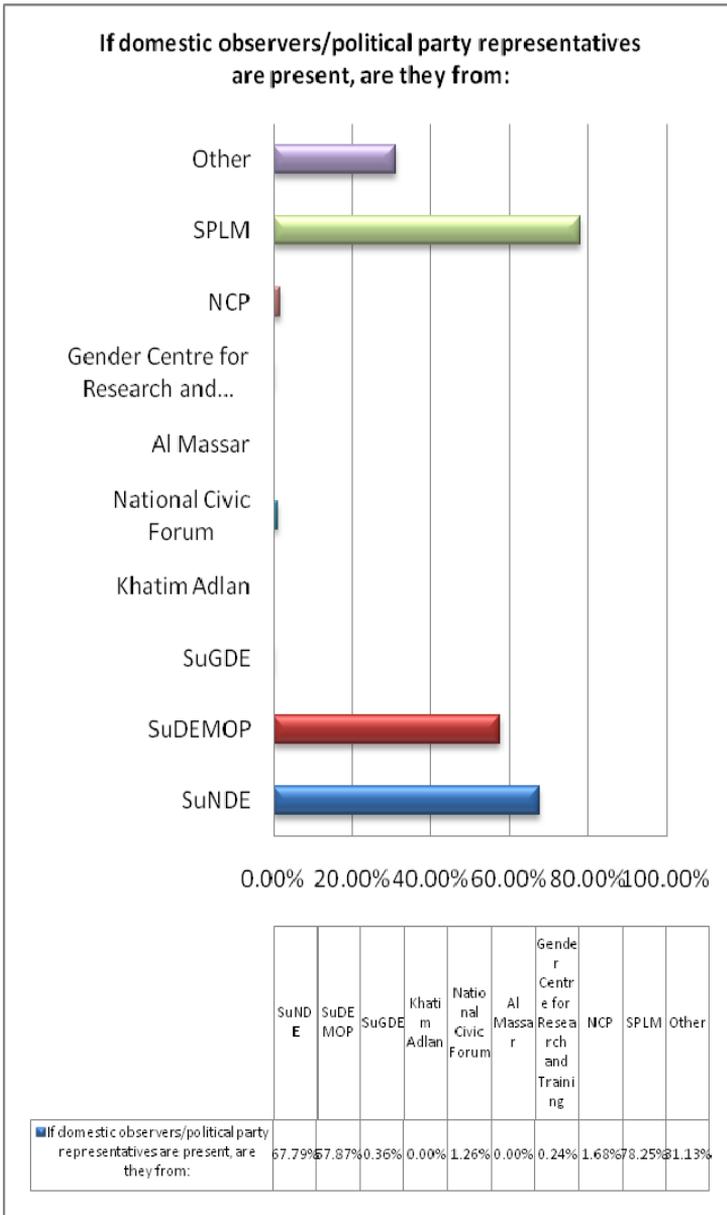
3.2. Polling Stats Southern Sudan – multiple answer questions







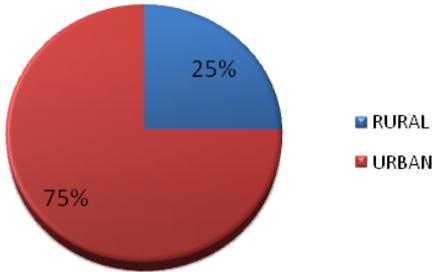




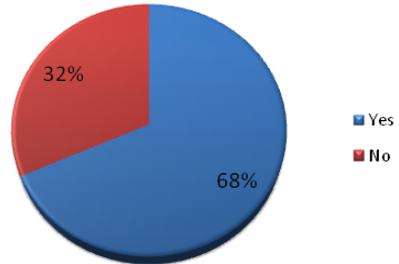


3.3. Counting Statistics for Southern Sudan

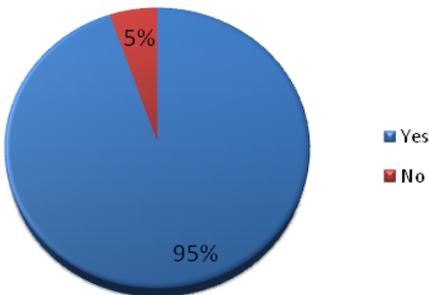
This RC is



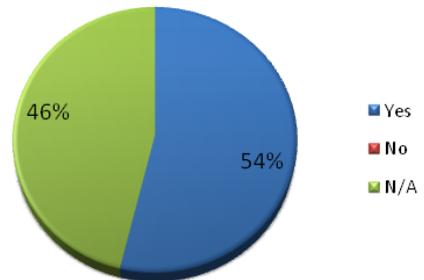
Does the RC Chairperson seal the slot of the ballot box(es) and record the number of the seal(s) in the "Records of the Seals" Form?



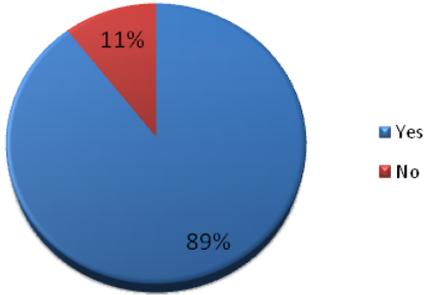
Does the number of used, spoiled and unused ballots match the total number of ballots received by the RC?



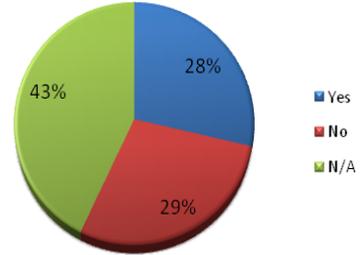
If no, was this discrepancy resolved?



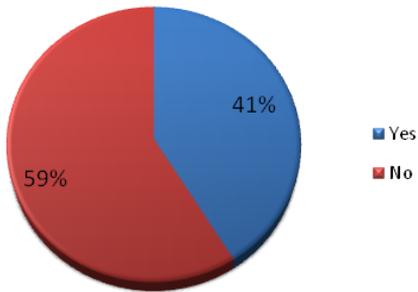
Does the number of used and spoiled ballots match the total number of ballots issued to voters by the RC?



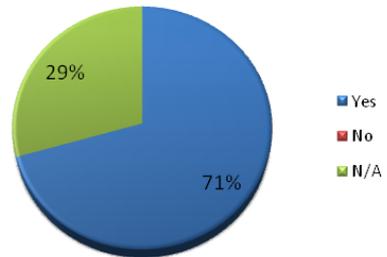
If no, was this discrepancy resolved?



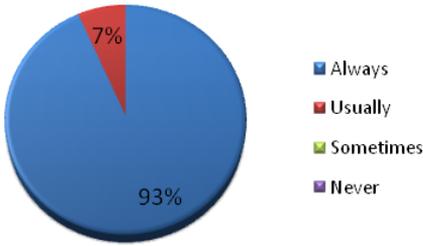
Were there used ballot papers that were not stamped with the SSRC stamp?



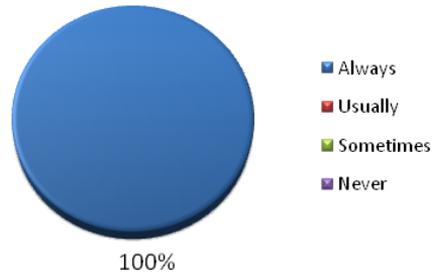
If Yes, were they considered invalid?



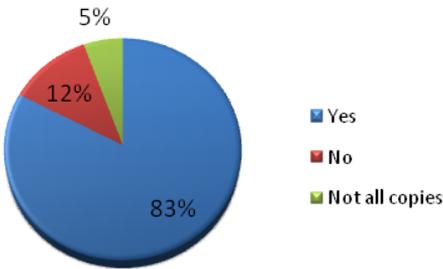
Where the choice of the voter is not clear, is the ballot paper considered invalid?



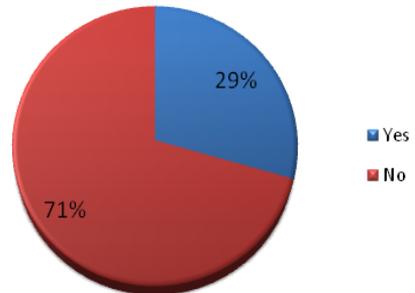
Is there a general agreement among all present in the RC regarding the invalidation of unclear ballot paper markings?



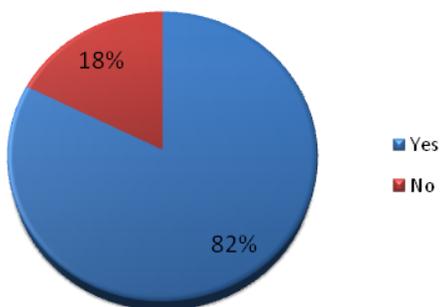
Does the RC Chairperson complete, sign and stamp the Results Form (1 original and 4 copies)?



Does the RC Chairperson publicly display a copy (Copy 1) of the Results Form at the Referendum Centre?



Does the RC Chairperson put the sensitive materials into the ballot box, seal it, and record the seal number?



Does the RC Chairperson pack the results forms in Tamper Evident Bags A (original), B (copy 2) and C (copy 3)?

