

In the Name of Allah Most Gracious Most Merciful

ABYEI AREA REFEREDUM ACT 2009

DISCLAIMER:

This translation has not yet been certified by the Ministry of Justice as the official English translation of the original Arabic text. The Arabic text adopted by the National Legislature and signed by the President on 31 December 2009, should prevail over this translation as the sole official text.

This translation was carried out by using, whenever similar, the official English translation of the National Election Act of 2008 and of the Southern Sudan Referendum Act 2009.

National Assembly

Legislation

**The National Legislature
9th Session
ABYEI AREA REFERENDUM ACT 2009**

Pursuant to the provisions of the Interim Constitution of the Republic of the Sudan (2005), the National Legislature adopted the following Act, which is signed by the President of the Republic:

**CHAPTER ONE
Preliminary Provisions
Title and Commencement**

1. This Act shall be cited as **“Abyei Area Referendum Act 2009”** and shall come into force as from the date of signature.

Definitions

2. In this Act, unless the context otherwise requires:

“Referendum”	Means the process of taking the opinions of the residents of the Abyei Area in accordance with the provisions of the Constitution and this Act,
“Secretariat General”	Means the Secretariat General of the Abyei Area Referendum Commission provided for under Section 18 of this Act,
“Registration Card”	Means the registration card issued by the Abyei Area Referendum Commission which proves registration in the referendum register,
“Ballot”	Means the ballot paper issued by the Abyei Area Referendum Commission to enable the voters to exercise their right to referendum
“Information Programme”	Means the referendum information programme provided for in Chapter Five of this Act for the education and enlightenment of the residents of the Abyei Area on the referendum and how to exercise their right in this regard,
“Agreement”	Means the Comprehensive Peace Agreement signed on 9 January 2005 between the Government of the Republic of the Sudan, the Sudan People’s Liberation Movement and the Sudan People’s Liberation Army,
“Constitution”	Means the National Interim Constitution of the Republic of the Sudan 2005,
“The Government”	Means the Government of National Unity provided for in Part Three Chapter Five of the Constitution,
“The Government of Southern Sudan”	Means the Government of Southern Sudan established according to the Agreement, Chapter

	One of Part Eleven of the Constitution and Chapter Four of the Interim Constitution of Southern Sudan 2005,
“Chairperson of the Commission”	Means the Chairperson of the Commission appointed in accordance with the provisions of Section 10 of this Act,
“Deputy Chairperson”	Means the deputy of the Chairperson of the Commission appointed in accordance with the provisions of Section 10 of this Act,
“Chairperson of the Referendum Center Committee”	Means the Chairperson of the Referendum Center Committee appointed in accordance with the provisions of Section 22 of this Act,
“Sub-Committee Chairperson”	Means the Chairperson of the Referendum Committee established in the administrative unit appointed in accordance with the provisions of Section 21 of this Act,
“Referendum Register”	Means the Referendum Register developed by the Commission that includes the names of the persons eligible to vote in the referendum in accordance with the provisions of the Constitution and this Act,
“Member”	Means the member of the Commission provided for in this Act,
“Sub-Committee”	Means the Sub-Committee for referendum in the County/Locality provided for in Article 21 of this Act,
“Court”	Means the court formed by the President of the National Judiciary in the Abyei Area, in accordance with a request made by the Presidency of the Republic, based on the Abyei Area protocol,
“Referendum Center”	Means any Referendum Center established by the Commission to carry out the processes of registration, polling, votes counting and sorting and announcement of results,
“Commission”	Means the Abyei Area Referendum Commission established under Section 8 of this Act,
“Corrupt Practices”	Means any of the practices provided for in Chapter 6 of this Act
“Voter”	Any Sudanese person who meets the requirements provided for under Section 24 of this Act,
“Abyei Area”	Means the geographical area provided for in the republican decree 18 of 2009 in accordance with the Hague Permanent Court of Arbitration ruling,
“County/Locality”	Means the administrative unit of local government in the Abyei Area.

Application

3. Provisions of this Act shall apply to the referendum organized by the Commission, in cooperation with the Administration of the Abyei Area, the Government and Government of Southern Sudan, under international observation, on 9 January 2011, i.e. six months prior to the end of the interim period in accordance with the provisions of the constitution and this Act.

CHAPTER TWO

The Right to Determination of Administrative Status through Referendum

Right to Referendum

4. The residents of the Abyei Area shall exercise their right to determine their future administrative status through the referendum in accordance with the provisions of the present Act.

Referendum

5. The referendum, provided for in Section 4 above, shall be conducted in the Abyei Area on 9 January 2011 and shall be organized by the Commission, in cooperation with the Abyei Area Administration, the Government and the Government of Southern Sudan and under international observation.

Referendum to Choose Between Two Options

6. While exercising the right to determination of administrative status through voting in the referendum, the residents of the Abyei Area shall cast their votes for either:
 - i. That Abyei retain its special administrative status in the north or
 - ii. That Abyei Area becomes part of Bahr El Ghazal in Southern Sudan.

Environment Favorable to Conduct the Referendum

7. To ensure the free will of the residents of the Abyei Area to express their views, in accordance with Section 6 above, the different levels of governance shall commit to creating an environment favorable to conduct the referendum through the following:
 - a. Appropriate environment and security conditions in order to prepare and organize the free exercise of referendum,
 - b. Freedom of expression for all the people of Abyei Area to enable them to dispense their views on the referendum through mass media or any other means,
 - c. Freedom of assembly and movement to all residents of Abyei Area in accordance with the provisions of the Constitution and the present Act,
 - d. Ensuring the presence of IGAD member states and partners, representatives of the United Nations, the European Union, African Union and other international signatory bodies as witnesses to the Comprehensive Peace Agreement to engage in the observation on the referendum,
 - e. Ensuring the presence of national, regional and international Civil Society Organizations to observe all the procedures pertinent to the referendum-related awareness campaign,

- f. Ensuring that, in accordance with the Political Parties Act 2007, the registered political parties, organizations and gatherings adhering to the Comprehensive Peace Agreement are given equal opportunities in voicing their views on the referendum options,
- g. Educating and registering the voters, safeguarding and guaranteeing their right to secret voting without fear or intimidation.

CHAPTER THREE

The Commission

Establishment of the Commission, Premises and Structure

8.

- (1) Immediately following the coming into force of this Act, the Presidency of the Republic shall establish a Commission that shall be known as THE ABYEI AREA REFERENDUM COMMISSION, which shall have a corporate personality, its public seal and shall have the right to litigate in its own name.
- (2) The Commission headquarters shall be based in the town of Abyei and shall have the right to establish registration and polling centers inside the Abyei Area
- (3) The structure of the Commission comprises the following:
 - a) Commission Headquarters
 - b) Secretariat General
 - c) Referendum Sub-Committees in the Counties/Localities of the Abyei Area,
 - d) Registration Centers

Commission's Independence

- 9.** The Commission shall be financially, administratively and technically independent and shall perform all its duties and powers as provided for by this Act with the utmost degree of independence, impartiality, transparency and integrity, and no one shall interfere in its affairs, duties, competences or limit its powers.

Formation and Membership of the Commission

10.

- (1) The Commission is composed of the Chairperson, his/her Deputy and seven members to be appointed by the President of the Republic, with the approval of the First Vice-President, in accordance with the provisions of Sub-Section 58 (2) (c) of the Constitution.
- (2) The member shall meet the following requirements:
 - a) To be Sudanese by birth
 - b) To be well-known for independence, competence, non-partisan and impartiality
 - c) At least 40 years of age
 - d) Of sound mind
 - e) Literate

- f) Has not been convicted of a crime involving honesty or moral turpitude even if pardoned.
- (3) Membership of the Commission shall expire at the end of the interim period or in accordance with Sections 11 and 12 below.
- (4) The Chairperson of the Commission and his/her Deputy shall perform their duties on a fulltime basis.

Vacancy of the Post

11.

- (1) A post in the Commission shall be vacant for any of the following reasons:
- a) decision delivered under the provisions of Section 12 below,
 - b) acceptance of resignation by the President of the Republic,
 - c) developing a crippling mental or physical disability as per a report from the General Medical Commission,
 - d) death.
- (2) In case the member’s post falls vacant for any of the reasons mentioned in Sub-Section (1) above, a successor shall be appointed within 30 days, following the same procedures and conditions provided for in Sub-Section 10 (2) of this Act.

Abrogation of Membership or Removal

12.

- (1) Membership shall be abrogated by a decision from the President of the Republic with the approval of the First Vice-President for any of the following reasons:
- a) repeated absence for five consecutive meetings without permission or acceptable excuse, which the Commission shall report to the Presidency;
 - b) conviction for a crime related to honesty or moral turpitude based on a notification made by the Commission.
- (2) The President of the Republic, with the approval of the First Vice-President, may issue an order to remove any of the members due to incompetence relating to the Commission’s powers, competences and procedures upon recommendation by the Commission.

Oath of the Chairperson, Deputy-Chairperson and Members of the Commission

- 13.** The Chairperson, Deputy-Chairperson and the other members of the Commission shall take following oath before the President of the Republic:

“I.....as a member of the Abyei Area Referendum Commission, swear by Almighty God to perform my duties and responsibilities faithfully, impartially and independently without fear or favor to any body and shall observe the Constitution and the present Act, and God is my witness.”

Functions and Powers of the Commission

14.

- (1) The Commission shall determine the criteria of residence in the Abyei Area in accordance with Sub-Sections 6 (1) (b) and (8) of the Protocol on the Resolution of the Abyei Conflict to ensure and guarantee that all voters, without discrimination, enjoy the exercise of their right to express freely their opinion in a secret referendum on self-determination to be conducted in accordance with the Constitution and the present Act.
- (2) Without prejudice to Sub-Section (1) above, the Commission shall assume the following duties and powers:
 - a) Organize and monitor the referendum in accordance with the provisions of the Constitution, in cooperation with the Administration of the Abyei Area, the Government and the Government of Southern Sudan.
 - b) Develop, revise, approve and archive the referendum register and issue registration cards and ballots.
 - c) Determine the static and mobile registration centers, as the case may be, in accordance with the provisions of this Act.
 - d) Issue regulations for the referendum and take the executive measures required.
 - e) Issue procedures for the organization of the referendum and accreditation of observers.
 - f) Determine measures, regulations, timeline, registration and polling centers for referendum, as well as the measures to ensure the maintenance of order, freedom, fairness and secrecy in the conduct of registration, polling and to oversee all of the above accordingly.
 - g) Control the sorting and counting of ballots, the arrangement of the preliminary referendum results and declaration of the referendum final results.
 - h) Postpone any referendum procedures for any compelling situation with the approval of the Abyei Area Administration, the Government and the Government of Southern Sudan and determine new dates thereto in accordance with the provisions of this Act.
 - i) Cancel the referendum results in any Referendum Center by a decision of the court if it is proven that there was any corruption regarding the correctness of procedures in that center, provided that the Commission shall rectify the fault and reorganize the conduct of the referendum in that center within a maximum of seven days following the issuance of the decision. In the event of impossibility to re-conduct the polling within the determined period, the register of the center in question shall be excluded from the overall register and polling.
 - j) Disseminate questionnaires and forms to be used in the polling process and prepare the documents necessary thereto in the national and official languages used normally in the Abyei Area as shall be determined by the Commission.
 - k) Take the necessary action against any person who commits an action deemed to be a corrupt practice and take the appropriate measures against any employee or worker who contravenes the provisions of this Act or the rules and regulations stemming from it.

- l) Prepare, design and print the ballots for the referendum so they are clear and easy to understand.
 - m) Form the necessary committees required by this Act to help the Commission in the performance of its duties and determine their competences, powers and work procedures.
 - n) Recruit referendum and registration staff, determine their duties and powers and supervise their functions in accordance with the provisions of this Act.
 - o) Approve the Commission budget and the budget for the referendum operations and submit it to the Presidency of the Republic for approval.
 - p) Approve the organizational and functional structure of the Commission and the Secretariat General and determine the emoluments of the Secretary General and terms and conditions of service and submit the above to the Presidency of the Republic for approval.
 - q) Address any issues, needs or procedures relating to registration, polling or votes counting or sorting for the referendum.
 - r) Appoint members of Sub-Committees in the Counties/Localities and Referendum Centers staff.
 - s) Ensure the availability and receipt of all logistic requirements, materials, tools and equipment and delivering them to the Sub-Committees, to ensure dispatching the above to registration and polling centers as the case may be.
 - t) Issue regulations to determine mechanisms of coordination between the Commission and the Secretariat General.
 - u) Perform any other functions necessary to the conduct of the referendum.
- (3) The Commission may delegate any of its powers to its chairperson/deputy chairperson or any of the Commission members or committees according to the conditions and regulations it deems appropriate.

Meetings of the Commission

15.

- (1) The Commission shall hold regular ordinary meetings and may hold extraordinary meetings at the invitation of the chairperson or by a written request submitted of one third of the members.
- (2) The quorum for any meeting shall be complete by the presence of more than half of the members.
- (3) The decisions of the Commission shall be taken unanimously in a valid meeting; otherwise they shall be passed by a majority of the votes of the members present. If the votes are equal, the chairperson of the meeting shall have a casting vote.
- (4) The Commission shall issue an internal regulation for the organization of its activities and the procedures of its meetings.

Powers of the Chairperson/Deputy Chairperson

16.

- (1) The Commission's Chairperson shall be responsible for the following powers:

- a) Chairs the meetings of the Commission.
- b) Represents the Commission before others.
- c) Follows up the implementation of the decisions of the Commission.
- d) Submits a recommendation to the Presidency of the Republic, following the approval of the Commission, to appoint the Secretary General and determine his/her emoluments and privileges.
- e) Supervise the activities of the Commission.
- f) Submit the proposed budget to the Presidency of the Republic for approval.
- g) Undertake any other tasks which may be assigned to him/her by the Commission.

(2) Deputy Chairperson shall be responsible for the following powers:

- a) Assume the functions of the chairperson in his/her absence.
- b) Carry out any other functions delegated to him/her by the chairperson or by the Commission.

Immunity of the Chairperson, Deputy Chairperson and Members

17. No criminal proceedings shall be taken against the Chairperson, the Deputy Chairperson, or any member of the Commission in the performance of their duties according to this Act, except in a situation where any of them was caught in the act, and after obtaining a written permission from the President of the Republic.

Secretariat General and its Powers

18.

- 1) The Commission shall have a Secretariat General headed by a Secretary General to be appointed by the President of the Republic with the approval of the First Vice President upon recommendation by the Commission.
- 2) The Secretariat General shall be responsible for carrying out the executive, administrative and financial work of the Commission in accordance with the regulations.
- 3) The Secretary General shall open and manage an account for the Commission at the Central Bank of Sudan or any other bank accredited by Bank of Sudan according to generally accepted accounting practices and shall also deposit all the Commission's revenues, at the earliest possible time, into the Commission's account and no amount of money may be withdrawn from the said account except by a prior permission from the competent authority.
- 4) The Secretary General shall provide and safeguard accounting records and balance and administer them regularly according to the accepted standards and practices of accounting.
- 5) The regulations shall detail the powers and duties of the Secretary General.

Budget and Accounts of the Commission

19.

- 1) The Commission shall have an independent budget to be prepared according to the standards adopted by the state. Such budget shall be approved by the Commission and

submitted by the Chairperson of the Commission to the Presidency of the Republic for inclusion within the annual general budget of the state.

- 2) The Commission shall keep regular accounts and records of the revenues and expenditures according to accepted accounting standards.
- 3) Notwithstanding Sub-Section (2) above, the Commission shall apply the Financial and Accounting Procedures Act in force and the regulations made there under.

Audit of the Commission Accounts

20. The National Audit Chamber or its authorized representative under its supervision shall audit the accounts of the Commission at the end of the referendum for submission to the National Assembly.

CHAPTER FOUR

Regulation and Procedures of the Referendum

Part one

Sub-Committees, Referendum Centers and Staff

Establishment of Sub- Committees, their Powers and Competences

21.

- (1) The Commission shall establish sub-committees according to sub-section (2) below and shall appoint their staff.
- (2) Each sub-committee in the County/Locality shall comprise a chairperson and four members, provided that they shall meet the following requirements:
 - a) To be Sudanese by birth.
 - b) Well known as independent, competent, non-partisan, impartial and honest.
 - c) Not younger than 40 years of age.
 - d) Of sound mind
 - e) Literate and
 - f) Not have been convicted of a crime involving honesty or moral turpitude even if pardoned.
- (3) The Sub-Committee shall enjoy independence, impartiality and transparency in performing all its duties and powers according to the provisions of this Act, and with consideration to the provisions of Sub-Section (5) below, no party may interfere in its activities, functions and powers as authorized by this Act, its regulations and directives.
- (4) Chairperson of the Sub- Committee shall be in charge of referendum operations in the County/Locality.
- (5) The Sub-Committee shall be accountable to the Commission in performing the functions stipulated for in Sub-Section (6) below.

6) The Sub-Committees shall have the following powers:

- a) Formation of Referendum Centers committees in the Counties/Localities.
- b) Supervision of the Referendum Centers within the boundaries of the concerned county/locality and implementation of any directives issued by the Commission as stated in this Act and the regulations.
- c) Issuing directives and supervising the Referendum Centers in all matters regarding the referendum operations within the boundaries of the concerned county/locality.
- d) Assuming all the competences and powers relating to the referendum as delegated by the Commission.
- e) Recruitment of the staff of the Referendum Center as recommended by each chief of Referendum Center in the concerned Locality/ County.
- f) The head of the sub-committee shall be responsible for the referendum procedures in the County/Locality.

7) Chairperson and members of the Sub-Committee shall take the following oath before the President of the Commission:

“I swear by Almighty God to perform my duties in the referendum fairly, impartially, transparently and honestly without favor or grudge to any one, and from God I seek help and God is my witness”.

Formation of Referendum Centers Committees

22.

- (1) The Commission shall, upon recommendation by the Sub-Committee, form Referendum Centers Committees in each county/locality and determine their competences and powers.
- (2) The Referendum Centers Committees shall conduct the registration, polling, sorting, counting and declaration of the results.
- (3) The same requirements stipulated in Sub-Section 21(2) above shall apply to the heads and members of Referendum Centers Committees.
- (4) The Chief of the Referendum Center Committee shall be in charge of referendum procedures in the Referendum Center.

Duties of Referendum Staff

23. Referendum staff shall organize and assist in all the procedures relating to registration, polling, sorting, counting, aggregation and announcing of the results, as the case may be.

Part Two
Referendum Register

Voter's Eligibility

24. A voter shall be a resident of Abyei Area according to Article 6(1) of Abyei Area Protocol namely:

- (a) Members of Ngoc Dinka Community;
- (b) Other Sudanese residing in Abyei Area in accordance with the criteria of residency, as may be determined by the Commission according to section 14(1) of this Act;
- (c) Not less than 18 years of age;
- (d) Of sound mind;
- (e) Registered in the Referendum Register

Proof of Voter's Identity

25.

- 1) For the purpose of Section 24 above, the identity of the voter shall be proved by one of the following:
 - a) Presenting the original identity card or personal identification document or a certificate issued by the local government Authority of the area as recommended by the Sultan of the Local Administration.
 - b) A direct oral or written testimony by the Local Administration in the area.
- 2) To verify any document or written/oral testimony, a referendum official shall seek the assistance of the local authority or the Sultan of the Local Administration or the dignitaries of the concerned community.
- 3) To verify the identity of someone who does not possess any personal identification document, the referendum official shall seek the help of the competent Sultan.

Conditions of Registration and Participation in the Referendum

26.

- 1) Registration in the Referendum Register is a basic right and an individual responsibility for all those satisfying the required legal conditions.
- 2) Notwithstanding Sub-Section (1) above, anyone who satisfies the following conditions may register his/her name in the referendum register:
 - a) Meet the voter eligibility requirements as defined in Section 24 of this Act.
 - b) Possess identification document or a certificate approved by the Administrative Unit in the area or by the local or traditional competent authorities as the case may be, and,

- c) Not have been registered in any other location.
- 3) The regulations shall determine the means and methods of registration and the date for appeals.

Organizing the Referendum Register

27. To organize the referendum register the Commission shall perform the following:

- a) Prepare the referendum register in the manner and time prescribed by the regulations.
- b) Revise the referendum register to ensure its accuracy by adding, removing, amending or revising it three months prior to polling day according to the provisions of this Act and its regulations.
- c) Make the referendum register available to the public to revise the voters' details and submit their objections to the registration or otherwise.
- d) Fixing an exhibition date for displaying the referendum register so that voters can object to registered entries or submit their requests to amend their data or place of residence.

Objections to the data

28.

- 1) Any registered voter in a Referendum Center may submit a written objection within seven days from the date of publication of the preliminary referendum register to correct the erroneous information or data regarding his/her registration or object to the registration of another person if s/he is:
 - a) Dead,
 - b) left the area to another location for good,
 - c) Does not meet the voter's eligibility requirements or,
 - d) Does not meet the registration requirements.
- 2) The objections to the preliminary referendum register shall be considered within five days from the date of submission by a committee appointed by the Chief of the Referendum Center Committee in each Referendum Center with the approval of the Commission.
- 3)
 - a) The Referendum Center Committee shall, within fifteen days immediately following the determination of all objections, make public for inspection a list of names of the voters whose details were corrected or deleted from the referendum register.
 - b) The concerned voters shall have the right to object, during the period referred to in Sub-Section a) above, to the decisions of correction or deletion by submitting a signed form declaring his/her right for registration as shall be specified by the regulations.

- c) In case of acceptance or rejection of the objection, the Referendum Center committee, as the case may be, shall amend the corrected details or re-enter the deleted voter's name into the register.
- 4) Immediately following the end of the exhibition and objection period provided for in Sub-Section (3), the Referendum Center committee shall submit the names recommended for correction or deletion of data to the Commission.

Appeals against the decisions of the Referendum Committees

29.

- 1) Any person, who is prejudiced by the decision issued by the committee formed under Sub-Section 28 (2) above, may appeal, whether personally or through a representative, to the competent court of law within one week from the date of the decision.
- 2) The competent court of law shall rule on the appeal within five days from its reception, and the court's decision shall be final.

Final Referendum Register

30.

1. Following the final revision and receipt of the results of objections, the Commission shall prepare the final referendum register and make it public one month prior to the start of polling. No further objection shall be considered following the publication of the final referendum register by the Commission.
2. The Commission shall make the final referendum register available for inspection and it may give any person a copy thereof upon request on the form prepared by the Commission and following the payment of the prescribed fees.

Part Three **Polling and Procedures**

Distribution of Referendum Materials

31.

- (1) The Commission shall supply the Referendum Centers through the sub-committees with the following materials:
 - a) Sufficient quantities of materials required for the registration, such as indelible ink and stationery.
 - b) Sufficient number of referendum ballots, equal to the number of voters in each Referendum Center plus 10% in reserve.
 - c) A list of the number of referendum ballots delivered, as per the provisions of Sub-Section (b) above, indicating the serial numbers.
 - d) Any other materials required for organizing and conducting the polling process including ballot boxes, polling screens to allow a secret vote, forms and reports required for regulating the processes of polling, sorting and counting.

- (2) Each Sub-Committee in each county/locality shall supply all Referendum Centers in the administrative unit with the necessary materials mentioned in Sub-Section (1) above at least forty eight hours (48) before the polling day.

Publication of polling procedures

32.

- (1) At least two months before the beginning of the polling, the Commission shall determine the timeline for polling procedure that includes the date, time and duration of the polling in the Official Gazette or other available mass media.
- (2) Subject to Sub-Section (1) above, the Commission shall make public a list of all Referendum Centers through the mass media or any other suitable means.
- (3) The sub-committee in each county/locality shall provide each Referendum Center chairperson with a copy of the public notice mentioned in Sub-Section (2) above. The Chief of the Referendum Center concerned shall ensure that this notice is disseminated widely in all Referendum Centers affiliated to him.

Referendum Centers and Polling Time

33.

- (1) The Commission shall establish Referendum Centers in all Counties and localities to initiate and organize polling procedures.
- (2) Each Referendum Center shall meet the following conditions:
 - (a) to be located in an open area, or otherwise in a large premises accessible to voters to enter and exit easily;
 - (b) to be accessible to persons with special needs and to the elderly to exercise their right to vote.
- (3) Polling shall commence in all Referendum Centers at the date, time and for the duration determined by the Commission. The process shall continue until the end of the specified duration.
- (4) The Referendum Centers shall remain open following the official closure of the polling process, so as to enable the voters inside the centers and those standing in line to exercise their right to vote. Voters who arrive in the center after the closing time shall not be allowed to enter.
- (5) Polling time shall not be extended, except under the provisions of Sub-Section (4) above or by permission of the Commission, in accordance with the regulations.

Polling procedures

34.

- (1) Subject to the provisions of this Act, the Commission shall issue the regulations required to hold the polling, provided that polling shall take place in seven days, except where the

Commission decides to extend such period for substantive reasons so that voters can exercise their right to vote with the utmost degree of freedom and secrecy.

- (2) For the organization of polling procedures in each Referendum Center, the Commission shall ensure that the following material is available:
 - a) a ballot box in each Referendum Center. If the box is full of ballots, the Chief of the center shall provide another box according to the procedures stipulated in this Act and its regulations;
 - b) ballots including the two symbols referring to the referendum options.
- (3) The referendum voter shall cast his/her vote in the following manner:
 - a) by applying his/her fingerprint opposite to his/her name in the voters register before the Referendum Center committee and the observers,
 - b) by applying his/her fingerprint in secret on the symbol of his/her choice on the ballot,
 - c) to cast the ballot inside the box.
- (4) The regulations mentioned in Sub-Section (1) above shall detail all procedures relating to the daily opening and closing of polling, verifying that ballot boxes are empty from any ballots before the start of polling, polling reports, the rights and duties of observers, polling procedures for people with special needs, the cases of spoiled ballots, and any other procedures.
- (5) Accredited observers and media representatives shall have the right to enter the Referendum Center at any time during the polling process as determined in the regulations.
- (6) The persons mentioned in Sub-Section (5) above shall not interfere with the duties of the referendum officials or speak to any voter during her/his presence in the polling center.
- (7) The Chief of the Referendum Center shall have the right to order the expulsion from the center of any person mentioned in Sub-Section (5) above, whenever he/she contravenes the provisions of this Act and its regulations or commits any act that can hinder the polling process.
- (8) a) The Administration of Abyei shall form security committees to provide security for the referendum. These committees shall be constituted of the police and the National Security Services operating in Abyei area.
b) The security committees mentioned in Sub-Section (a) above shall perform their functions according to the instructions issued by the Commission.

Obstruction and Postponement of Polling

35.

- (1) Whenever polling at any of the Referendum Centers is obstructed by riot, violence or any other act that may obstruct the course of the polling, the Chief of the concerned Referendum Center may immediately stop the polling process and announce its postponement.

- (2) In case of the postponement mentioned in Sub-Section (1) above, the Chief of the concerned center shall, when the reason for the postponement no longer exists, extend the polling period for a period equal to the postponement period.

Part Four

Sorting and Counting of Votes and Declaration of Results

Sorting and Counting of Votes at the Referendum Center

36.

- (1) The process of sorting and counting the votes at the Referendum Center shall commence immediately after the Chief of the Referendum Center declares the polling closed.
- (2) In the presence of and under the monitoring of observers, the Chief of the Referendum Center shall open the ballot boxes one by one and empty their contents on the sorting table. Members of the Referendum Center Committee shall assist him/her in the sorting and counting of the ballot papers in the manner determined in the regulations.
- (3) The sorting and counting of votes shall continue until the end of the process and may neither be stopped nor postponed until all ballots in all ballot boxes are sorted and counted. The Chief of the Referendum Center shall provide the lighting and all other requirements to ensure the completion of the process of sorting and counting without interruption.
- (4) Accredited observers and media representatives are entitled to attend the entire processes of sorting and counting of votes without interfering in the duties of the sorting and counting officers or influencing them as determined in the regulations.
- (5) The Chief of Referendum Center shall have the right to order the expulsion of any person who contravenes the provisions of this Act or its regulations or commits any act that may hinder the sorting and counting processes.
- (6) The Chief of the Referendum Center shall prepare a report on the sorting and counting of each referendum ballot box and sign it personally provided that such report shall include the following information:
 - a) the name and number of the Referendum Center,
 - b) the number of registered voters in the center, the number of voters who voted, the number of those who did not vote, the number of ballots received, the number of used and unused ballots as well as the number of the spoilt ballots,
 - c) The total number of valid, invalid and unmarked ballot papers.
- (7) Polling results shall be recorded in figures and letters in four original copies signed by the Chief of the Referendum Center prior to the declaration of results in the presence of the committee members and observers. The regulations shall determine the procedure for submitting and recording objections during the processes of sorting, counting and declaration of results.

- (8) The Chief of the Referendum Center shall declare the polling results at the referendum centre before informing the Chairperson of the County's/Locality's Sub-Committee provided that a copy of the sorting and counting report shall be displayed in the referendum centre, while the other copies shall be sent to the Chairperson of the Sub-Committee in the County/Locality concerned.

Invalid Votes

37.

- (1) A vote shall be deemed invalid in the following cases:
- a) the ballot was torn or spoiled in any manner,
 - b) the voter has marked the ballot with his/her fingerprint in such a manner that his/her choice cannot be clearly determined.
- (2) A ballot shall not be deemed invalid as long as the voter's choice can be reasonably ascertained without any doubt.

Declaration of the Sorting and Counting Results

38.

- (1) After the completion of the sorting and counting of votes of each referendum ballot box or the recounting and resorting thereof, the Chief of Referendum Center shall declare the results of the sorting and counting, and display a copy of the report in a visible place in the referendum centre.
- (2) Immediately following the completion of the tasks provided for under Sub-Section (1) above, Chief of the Referendum Center Committee shall personally submit the following documents to the Chairperson of the Referendum Sub-committee in the County/Locality concerned:
- a) Three original copies of the sorting and counting reports as determined in the regulations
 - b) A report on the conduct of polling and sorting in her/his center.
 - c) All the forms used in the processes of sorting, counting and aggregating votes.
 - d) The forms of the declaration of sorting and counting results,
 - e) All the used, unused and spoiled ballots, and polling, sorting and counting materials as determined in the regulations.

Aggregation and Declaration of the results

39.

- (1) For the purpose of the declaration of results, the procedures below shall be followed:
- a) The Chairperson of the Referendum Center shall declare the result and submit them to Chairperson of the Sub- Committee.

- b) The Chairperson of Sub-Committee shall aggregate the results from the Chairpersons of the Referendum Centers in the concerned County/Locality and submit them to the Commission.
 - c) The Commission shall, after receiving the results from the Sub-Committees, declare the preliminary results on the two options of referendum.
 - d) The results announced in Sub-Section (c) above shall be final unless an appeal is submitted against them within a period to be determined, in accordance with the provisions of this Act and its regulations.
 - e) When an appeal is lodged against the preliminary results, they shall be considered final once the Court has ruled on the appeal.
- (2) The result of the Referendum shall be in favor of the option that secured the simple majority (50%+1) of the total number of votes cast for one of the two options, either to confirm that Abyei retain its special administrative status in Northern Sudan or that Abyei be part of Bahr-al-Ghazal in Southern Sudan.

**Presence of observers and media representatives during
the aggregation and declaration of the results**

40. Accredited observers and media representatives shall have the right to attend the process of aggregation and declaration of the results in referendum centers, Counties/Localities or at the Commission.

Appeals against Referendum Results

41.

- (1) Subject to the provisions of Section 39 of this Act, any voter may lodge an appeal against the preliminary results declared by the Commission.
- (2) The appeal of Sub-Section (1) above shall be submitted to the Court within three days from the date of the declaration of the preliminary results by the Commission. The Court shall decide on the appeal and render its decision within one week of its reception and its decision shall be final and binding.

Referendum Final Results

42.

- (1) Immediately after the end of the period determined for the submission of and ruling on appeals, in accordance with the provisions of this Act, and after taking into consideration any decisions made in this respect by the Court, the Commission shall prepare the referendum final results and declare them within forty-eight hours after ruling on the appeals, provided that such declaration shall be made no later than thirty days from the date of the end of polling. This shall include all the details stated in the regulations according to the provisions of section 39 (1) of this act.
- (2) The Commission shall publish the final results in the Official Gazette and the available mass media and ensure their widest possible dissemination.

CHAPTER FIVE
Information Rules and guarantees
Referendum Information Programme

43.

- (1) The Commission shall announce the date and duration of an information programme according to the provisions of this Act, provided that this programme shall end one day before the polling date.
- (2) The Commission and the Administration of Abyei shall guarantee equal opportunities and just treatment in the media for the advocates of the two options of the referendum.

(3) It is not permissible to restrict the freedom of expression, directly or indirectly by whatever means and methods including abuse of power in the State-owned media without prejudice to freedom of expression and dissemination of information and viewpoints.
- (4) The Commission shall appoint an independent and impartial media committee to launch an information campaign for the education and enlightenment of the residents of Abyei on the referendum procedures.
- (5) The Commission shall determine and announce the manner in which the information programme will be conducted. The program shall be disseminated on the widest scale and the referendum committees shall be provided with copies thereof, as per the provisions of this Act and its regulations.
- (6) No one shall be permitted to carry out an activity relating to the information programme during the 24 hours preceding the start of or during polling.

Rights and Duties during the Implementation of the Information Program

44.

- (1) In accordance with the Constitution and the law in a democratic society, registered political parties and individuals have the right to explain, express, disseminate and announce their views on the two referendum options through various media and information channels.
- (2) Any government official or public authority shall treat all groups and individuals equally and with the utmost impartiality during the period of the information programme.
- (3) All state-owned media shall treat the advocates of the two referendum options fairly and equally regarding the access to and the time period given for free media services and shall commit to credibility, honesty, fairness and transparency while conveying information to the citizens.
- (4) Notwithstanding the provisions of any other Act, and according to the provisions of this Act and its regulations, every person shall enjoy full freedom to express his/her opinion and get information about the referendum.

- (5) During the information programme, no one may use expressions that constitute incitement to commit crimes relating to public order, insurrection, violence or threaten to resort to war or any of these actions or use expressions that call for hatred or discrimination.
- (6) Any party, organization, group, individual or any media or information channel inciting hatred, strife, division, hostility or violence or mislead the public opinion shall be deemed as committing a crime punishable by the provisions of this Act or by any other law.

Rules and Guidelines of Information Program

45.

- (1) The Commission shall, according to the regulations, develop the rules and guidelines required to guarantee the utilization and making use of all sorts of media to carry out the information programme.
- (2) The Commission, in cooperation with the public information channels, shall prepare a comprehensive programme to guarantee the right to use such media for the purpose of the information programme.
- (3) Without prejudice to the provisions of any other law, the Commission shall issue regulations on the publication of information programme materials, whether in the form of booklets, posters, newspapers or of any other form. These publications shall contain information identifying their sponsor and shall bear the name and address of the publisher or any other requirements.
- (4) Without prejudice to the provisions of any other law, the regulations shall determine the rules and guidelines for the use of electronic media for the purposes of the information programme including audio-visual, internet, electronic messages and any other means. Nonetheless, these media may not be used to obstruct the programme.
- (5) No authority or individual may engage in any action or use any data that could obstruct the information programme.

CHAPTER SIX

Corrupt and Illegal Practices during the Polling

Part One

CORRUPT PRACTICES

Bribery

46.

- (1) For the purpose of this section, "the practice of bribery" means to give or offer any person:
 - a) money, gifts or financial inducements;

- b) employment, employment opportunities or preferential treatment in a person's employment;
- c) properties, bonds or securities in the award of contracts;
- d) contracts or preferential treatment in the award of contracts;
- e) any other material benefit.

(2) Any person shall be deemed to have committed the corrupt practice of bribery, directly or indirectly, if she/he:

- a) bribes or attempts to bribe any other person in accordance with Sub-Section (1) above, with the intention to influence the other person's choice in the referendum;
- b) solicits or demands a bribe for her/his own benefit or for any other person with the intention to influence the other person's choice in the referendum.

Undue Influence

47.

(1) For the purposes of this Act, "undue influence" shall mean:

- a) Use of violence or the threat to use violence against any person or other persons;
- b) Abduction or the threat of abduction.
- c) Intimidation or the threat of intimidation against any person or other persons;
- d) Destruction of or damage to the property or the threat of destroying or damaging the property;
- e) Sexual harassment or the threat of sexual harassment.

(2) A person shall be deemed to have committed corrupt practice of undue influence if she/he employs undue influence to coerce any other person, or his family, directly or indirectly with the intention to influence the other person's choice in the referendum.

Other corrupt practices

48. A person shall be deemed to have committed other corrupt practice if she/he intentionally:

- (a) Falsifies another person's details on the referendum register or on the forms used for this purpose;
- (b) Publishes or prints the Referendum Register or any part thereof which contains false or incorrect information;
- (c) Falsifies the information recorded on the ballot counting forms, statements or aggregation of results forms, preliminary declaration or final declaration of results with the intention to alter the outcome of the referendum.
- (d) Falsifies or directs other persons to falsify ballots;
- (e) Produces or retains ballots without the prior consent of the Commission;
- (f) Steals or conspires with others to steal or seize rob any registration cards or ballots, ballot boxes, official seals, referendum register or parts thereof, counting forms, preliminary or final declaration of results during the polling process with the intention to affect the outcome of the referendum;

- (g) Includes any details or destroys or defaces or changes any ballot, counting forms, statement of results, aggregation of results, preliminary or final declaration of results, at any time before or during voting or counting and aggregation of votes, with the intention to affect the outcome of the referendum;
- (h) Destroys or defaces a written complaint or objection or changes or replaces a written objection or complaint without the written consent of the objector or the complainant, or removes any complaint or objection attached to or included in a statement of results, counting forms or aggregation and declaration or a Referendum Center reports.

Obstruction of Referendum Officials

49. Whoever obstructs any referendum official while performing her/his duties under this Act, by disrupting the registration of voters, display and inspection of the Referendum Register, polling, sorting, counting or any other activity, shall be deemed to have committed a violation.

Impersonation

50. Whoever impersonates or attempts to impersonate another person whether living or dead or a fictitious person, applying to register in the Referendum Register or registering therein, or reporting to vote or voting in the name of another person shall be deemed to have committed the corrupt practice of impersonation.

Part Two

ILLEGAL PRACTICES

Infringement of the Secrecy of the Ballot

51.

- (1) A person shall be deemed to have committed illegal practice, if s/he asks another person about the way s/he has voted or induces that person to reveal how s/he has voted or attempts to see how a voter has applied his fingerprint on the ballot card or places any mark on the ballot that reveals the identity of the voter or asks or induces a companion of the voter to reveal how that person has voted during the time of polling.
- (2) Notwithstanding Sub-Section (1) above, one can assist a person with special needs to cast their vote as per the regulations.

Obstruction of the Participants in the Referendum

52. A person shall be deemed to have committed illegal practice if she/he obstructs by whatever means:

- a) any person with the intention to prevent that person from registering in the referendum or the polling register,
- b) any journalist or representative of any media accredited by the Commission in the exercise of their duties before or during the referendum,

- c) Any accredited observer by the Commission in the exercise of her/his duties and responsibilities in accordance with the provisions of this Act and the rules at any time before or during the referendum and until the expiry date of her/his accreditation.

False statements

- 53.** A person shall be deemed to have committed illegal practice by making false statement if s/he:
- a) submits an application to be registered in the Referendum Register which s/he knows either its information or details are false,
 - b) signs an identification document which s/he knows to be either wholly false or the details of which are false.

Failure to make a return

- 54.** A chief of a Referendum Center who fails without a legal excuse, to furnish the results of the referendum in the specified manner and within the time required under this Act and its regulations, shall be deemed to have committed illegal practice.

Prohibited Activities during Polling

- 55.** A person shall be deemed to have committed illegal practice if s/he:
- a) Uses electronic devices or any other means relating to the polling in any manner that contradicts the provisions of this Act or with the intention to affect the conduct of the referendum process and its results,
 - b) Being accredited observers, media professionals or members of the referendum options' advocacy groups who refuses to produce a personal identity proof,
 - c) Makes obstructions to voters in the exercise of their right to vote,
 - d) Does not enable accredited observers, media professionals or members of the referendum options' advocacy groups to exercise their duties as per this Act.

Part Three

OFFENCES DURING REFERENDUM

Offences during Polling

- 56.** A person shall be deemed to have committed an offence during the polling if she/he:
- a) Destroys or spoils the ballot card intentionally, or refuses to leave the referendum Center or to obey the instructions of the referendum officers,
 - b) Continues to stay, without being authorized, inside the referendum Center during the polling process,
 - c) Defaces, destroys or removes any public notice to the voters concerning the referendum prior to or during the polling process.

Offences during and after Sorting, Counting and Aggregation of results

57. A person shall be deemed to have committed an offence during the sorting, counting and aggregation of votes if s/he:

- a) Stays, without being authorized as per the provisions of this Act and its regulations, inside the referendum Center during the sorting, counting of votes or in a location established for the aggregation of results,
- b) Removes the results' notices fixed at the referendum Center before the announcement of the final results.

Punishments under this Chapter

58. Whoever contravenes the provisions of sections 47 to 57 inclusively, on conviction by the competent Court, shall be punished with imprisonment for a term not exceeding two years or with a fine or with both.

CHAPTER SEVEN¹

General Provisions

Observers

59.

- (1) The referendum process shall be conducted under international, regional and local observation. The Administration of Abyei Area, the Government of Sudan and the Government of Southern Sudan in coordination with the Commission, in addition to the countries sponsoring the Comprehensive Peace Agreement, shall invite or accept requests from some States or International, Regional or local Organizations to attend and observe the referendum provided for under this Act, and to nominate their representatives, provided that these representatives are officially accredited by the Commission.
- (2) Notwithstanding Sub-Section (1) above, the Commission shall constitute the referendum observation Committees from:
 - a) Legal counselors at the Ministry of Justice, Ministry of Legal Affairs and Constitutional Development of the GOSS;
 - b) Ex-public service employees or persons of the civil society, who are known for their uprightness and honesty;
 - c) Civil Society Organizations, press and the media;
 - d) Local, regional and international observers.

¹ Note from the translator: the original document mentions "Chapter Eight", which has to be a mistake since there is no chapter after Chapter Six.

- (3) The Referendum Committee in each Referendum Center shall allocate suitable space for observers in order to enable them to perform their duties easily and safely.
- (4) The Commission shall make the necessary rules to regulate the accreditation of observers.

Powers of the Observers

60.

- (1) The Committee mentioned in Section 59(2) above or any of its members shall exercise the following powers:
 - a) Observe the process of registration, polling, sorting and counting of votes, to ensure the fairness of the registration, polling, sorting and counting procedures as well as the announcement of results;
 - b) Ensure the impartiality of the persons in charge of the registration, polling, sorting and counting of votes, and their commitment to this Act and the regulations and orders made hereunder;
 - c) Visit and inspect the registration, polling, sorting and counting Centers at any time without previous notice;
 - d) Attend all stages of the registration, polling, sorting and counting and particularly be present at the opening and closing of the ballot boxes;
 - e) Ascertainment of the freedom and fairness of the registration, the secrecy of the polling, and write reports to that effect as shall be specified by the regulations and the rules.
- (2) Observation Committees or any member thereof shall not interfere in any manner in the work of the registration and polling Committees or their officials, provided that they may formulate questions verbally or in writing to the Chief of the Center's Committee.

Revocation of Observers' Confirmation

- 61.** The Commission, based on the recommendation from the Sub-Committee in the county/locality concerned, may cancel the formation of any observation Committee as stipulated in Section 59 of this Act, or revoke the accreditation of any of their members at any time if it is proven that they have committed any act in breach of this Act and its regulations.

Funding of the referendum

62.

- (1) The Presidency of the Republic and the International Community shall fund and appropriate the necessary funds into the accounts of the Commission to fund its running costs and the costs of the referendum within seven days following the establishment of the Commission.
- (2) Half of the amount allocated for the budget mentioned in article (1) above shall be transferred to the Commission's account as per the provisions of this Act and the accounting standards.

- (3) The Presidency of the Republic and the International Community shall allocate and appropriate the necessary funds to cover the activities of the parties supporting the Commission in accordance with the provisions of this Act.

**Power to Seek the Assistance of Technical,
Technological Aids and Public Sector Means of Transport**

63.

- (1) The Commission shall use all modern technical and technological aids and the public transportation means as well as necessary logistical support to perform its duties.
- (2) Without prejudice to the provisions of Sub-Section (1) above, the Commission may seek assistance at the beginning of the referendum process from the Administration of Abyei area, the Government of Sudan and the Government of Southern Sudan if necessary in order to use modern technical and technological aids and means of public transportation and other necessary means of support to carry out its duties.

Commitment to the Referendum Result

- 64.** The option approved by the inhabitants of Abyei Area by a simple majority of 50% + 1 of valid votes cast in the referendum in accordance with the present Act, shall supersede any other legislation and shall be binding to all the State bodies as well as all the citizens of Sudan.

Post-referendum Arrangements

- 65.** Without prejudice to the provisions of this Act, necessary post-referendum arrangements for Southern Sudan related to the Area shall be applied to Abyei in compliance with the results of Abyei referendum.

Referendum Courts

- 66.** For the purpose of referendum, the Presidency of the Republic shall instruct the National Judiciary to establish a Court located in Abyei town to decide upon the appeals relevant to Abyei Area referendum procedures.

Punishments

- 67.** Subject to Section (58) and without prejudice to any more punishment stipulated in any other law, whoever commits any contravention to the provisions of this Act shall be punished on conviction with imprisonment for a term not exceeding two years or with a fine or both.

Power to make Regulations and Orders

- 68.** The Commission shall make the necessary regulations and directives for the implementation of the provisions of this Act.

Certification

This is to certify that the National Legislative Council has ratified the Abyei Area Referendum Act for 2009 during its 9th Session Meeting No (13) dated December 30TH 2009.

Ahmed Ibrahim Eltahir
Chairman of the National Legislative Council

Approved:

Signature:

Marshall: Omar Hassan Ahmed Elbashir

President of the Republic

Date: 31/12/2009