

Democracy Support through the United Nations

Report 10/2010 - Evaluation

Sudan Case Report

COUNTRY CASE STUDY REPORTS

This country case study is one of several such reports that are part of an assessment of Norwegian support to democratic development through the United Nations system.

These case reports are not independent evaluations of the programmes or projects discussed, but rather studies of both the decisions taken by Norway and the UN to support the particular democratic development process, and the key factors that may explain the results. These studies should thus be seen as working documents for the general evaluation of the Norwegian support.

Task Team:

Mr. Vegard **Bye**, Scanteam, team leader

Mr. Abdel-Rahman **El Mahdi**, Independent Consultant

Mr. John **Gachi**, Independent Consultant

Peer Reviewer:

Mr. Hannes **Berts**, Stockholm Policy Group

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Abbreviations and Acronyms

ACHR	Advisory Council on Human Rights
AEC	Assessment and Evaluation Commission [re CPA]
CPA	Comprehensive Peace Agreement
DPA	Darfur Peace Agreement
DPA	Department of Political Affairs (at UN HQ)
DPKO	Department of Peace-keeping Operations (at UN HQ)
EAD	Election Assistance Division (of UNMIS; and of DPA at UN HQ)
EMB	Election Management Body
FES	Friedrich Ebert Stiftung
GNU	Government of National Unity
GoS	Government of Sudan [=GNU]
GOSS	Government of Southern Sudan
HRC	(UN) Human Rights Council
HQ	Headquarters
HR	Human Rights
ICC	International Criminal Court
IDEA	International Institute for Democracy and Electoral Assistance [International IDEA]
IFES	International Foundation for Electoral Systems
IMS	International Media Support
INC	Interim National Constitution
IOM	International Organization for Migration
IRI	International Republican Institute
M&E	Monitoring and Evaluation
MFA	Ministry of Foreign Affairs
NCA	Norwegian Church Aid
NCP	National Congress Party
NEC	National Elections Commission
NHRC	National Human Rights Commission
NOK	Norwegian <i>Kroner</i>
NPA	Norwegian People's Aid
NRC	Norwegian Refugee Council
OGC	Oslo Governance Centre (part of Bureau for Development Policy, UNDP)
OHCHR	Office of the [UN] High Commissioner for Human Rights
PPAC	Political Parties Affairs Council
RoL	Rule-of-Law
SAHDCG	Social & Human Development Consultative Group
SC	(UN) Security Council
SMEC	Sudan Media and Elections Consortium
SPLA	Sudanese People's Liberation Army

SPLM	Sudanese People's Liberation Movement
SRSG	Special Representative of the [UN] Secretary General [Head of UNMIS]
SUDIA	Sudanese Development Initiative
TCC	The Carter Center
TCP	Technical Cooperation Programme (by OHCHR)
UNAMID	African Union/United Nations Hybrid Operation in Darfur
UNMIS	United Nations Mission in Sudan
UNMIS/EAD	UNMIS Election Assistance Division
UNMIS/HR	UNMIS HR Section
UNPOL	United Nations Police
USD	United States Dollar
USG	Under-Secretary General (of the UN)

1 Background and Introduction

Scanteam, in partnership with the Overseas Development Institute of the UK, the Stockholm Policy Group of Sweden, and Nord/Sør Konsulentene of Norway, were contracted by Norad's Evaluation Department to carry out the "Evaluation of Norwegian Support to Democratic Development through the United Nations", covering the period 1999-2009. This country case report is one of the foreseen results of this task.

Norway has provided about NOK 2 billion through the United Nations to the areas covered by the concept of Democratic Development. This is to be understood largely in terms of the UN usage: *increased possibilities to participate in the society and in decision-making processes that have impacts on citizens' lives*. The *Objectives* are:

1. **Document the results** of Norwegian multi-bilateral contributions to democratic development;
2. **Undertake an analysis** of how support to different types of activities (elections/ media, etc) has worked in different contexts (i.e. institutional set-up, socio-political context, degree of conflict and level of economic development);
3. **Assess how decisions are made** in relation to allocations and disbursements through the multi-bilateral channel and how this influences development results;
4. **Assess strengths and weaknesses** of different UN organisations and programmes in different contexts; and
5. Provide **recommendations** for future programming for democracy support and for Norwegian positions in relation to the relevant multilateral organisations.

1.1 The Sudan Case Report

Norway has supported four different activities in Sudan: (i) electoral support for both North and South, for a total of NOK 34 million; (ii) a rule of law and conflict resolution program, and a related training activity in constitutional and international law, also through UNDP, totalling NOK 9 million; (iii) support to women's participation and their role in peace-building, through UNIFEM, totalling NOK 7.7 million NOK; and (iv) human rights through OHCHR, which in turn support the human rights unit of the UN peace mission to Sudan, UNMIS, with NOK 10 million NOK split evenly for 2007 and 2008.

The programs looked at were the election support and the human rights programs. While they are looked at separately, the team also considered to what extent synergy between them has been attempted. The election support strictly speaking falls outside of the time span defined for this evaluation. But the 2010 elections will be so decisive for the country's democratic future, and the size of the Norwegian support is so large, that we believe it is unavoidable to include it in order to say anything meaningful about Norwegian democracy support to this country. It means, though, that it may be difficult to assess the final Outcome, not to speak about the Impact of this very recent support.

2 Country Context

Norway's engagement in Sudan is founded on the Comprehensive Peace Agreement (CPA) of 2005, where elections were more of a concern to the international than to the two domestic partners. The elections in turn was one step on the way towards the final stage of peace agreement implementation, the referendum on Southern autonomy. At the same time, the leverage of the UN to insist on democratic elections and respect for human rights was severely limited by the Darfur-related conflict with the Khartoum regime.

During the 55 years since Sudan gained independence in 1956, the country has experienced 39 years of sustained, widespread, brutal war and civil strife: the Anya-Anyas led struggle from 1955-1972 and the SPLA/M led struggle 1983-2005.

Sudan purportedly has approximately 600 tribes but the country has only two official languages, Arabic and English. The population is thought to be in the region of 33 million and the major urban centres of Juba (in Southern Sudan) and Khartoum (in Northern Sudan) are currently experiencing rapid expansion and growth. Sunni Islam is the largest religion in the North and around 70% of Sudanese people adhere to Islam. The majority of South Sudan professes to Christian and animist beliefs.

The root cause of the war and civil strife has been the continued and sustained socio-political-economic exclusion, suppression and oppression of the marginalized peoples and regions of Sudan by the Khartoum based nationalist Arabized-cum-Islamic elite. This powerful nationalist elite despite its many variations either as democratically elected political parties in power in the sixties and in the mid eighties, military and/or pseudo religious regimes have dominated the country's political, military, security, intelligence and economic spheres.

The South in particular suffered from an administrative policy designed and implemented by Britain that separated the South from the rest of the country and in the process delayed its political-economic and social development. This skewed state of affairs as inherited from the departing colonial power(s) in the South led to agitation for expanded socio-political and economic space and accommodation from the Khartoum based nationalist elite. The roots of the Sudanese conflict can thus be traced back to centuries of uneven development, brutal trade practices including slave trade, and exploitative ethnic and religious divisions, creating the fault lines present-day Sudan is left to cope with.

The CPA was signed on 9 January 2005 in Nairobi after nearly four years of intensive negotiations between the two principal military-political players, under intense international and regional pressures. The CPA is the only accord that addressed these long-standing issues. It laid out a series of plans designed to move Sudan towards a democratic and peaceful resolution of these problems. In particular this included a framework for working towards national elections and a referendum to decide possible secession of South Sudan from North Sudan. The latter was the ultimate condition by the South to sign the agreement. Elections, on the other side, were seen more as a condition from the international community, not something the parties at war were particularly keen to include in the peace agreement.

2.1 Challenges to the Peace Agreement

The CPA has been subject to a great deal of criticism, and in particular that it exaggerated regional divisions by omitting the West and East from the talks and instead configuring a North-South/NCP-SPLM dichotomy. The implementation of the decisions in the CPA has also been flawed (e.g. in terms of respect for human rights) and heavily delayed (e.g., the various preparatory steps for elections, and indeed elections themselves which should have taken place in 2009), meaning it has struggled to live up to the ambitions that were outlined in its text. In 2010, Sudan is experiencing one of the most challenging and transformative stages in its short and turbulent history, and elections are only part of this complexity. As was apparent at the time of signing the CPA, it was going to be difficult to secure the full and fair implementation of the Accord, the most delicate aspect being how to entrench, enhance and ensure ownership of the peace process and deliver the “Peace dividend” in economic, social and political terms to the Sudanese people. The setting up of the Government of Southern Sudan (GOSS) in June 2005 was a landmark date in the South as it opened the socio-political and economic space for a new power dispensation in the country.

Especially the GOSS was faced with the immense challenges of social mobilization and transformation and bringing “the peace dividend” to the people. In most parts of Sudan including the marginal regions in the North, the presence of central authority was thin or non-existent on the ground, and infrastructure close to non-existent. The CPA, if implemented to the letter and spirit, promised constitutional government, democracy, good governance, the rule of law, citizen participation in the electoral process, respect for human rights and fundamental freedoms. Indeed, the Agreement envisioned and promised to foster national unity and address issues of marginalization based on political, economic, ethnic, religious, cultural and linguistic divides.

2.2 The Mindset of the Principal Actors to the CPA

Despite strenuous efforts prior to the general elections in April 2010 by both principal actors to the peace accord to acquire democratic identities and credentials, their mindset, ethos and practices were those of undemocratic, unrepresentative and militaristic organizations, both the National Congress Party (NCP)-led Government of National Unity in Khartoum (GNU) and the Juba-based GOSS led by the Sudan Peoples’ Liberation Movement (SPLM). In the run-up to the CPA-based polls, the two dominant parties are beholden to a single objective: political power acquisition and retention, if necessary through a resumption of military confrontation.

The danger of a return to war is triggered by a series of other internal political and ethnic divisions, the presence of armed militias and elements opposed to the CPA, persistent locally-based ethnic and resource conflicts that can easily turn into widespread conflict fanned by the large number of weapons still in civilian hands. The lack of a comprehensive accountable security provision and rapid response to local communities throughout much of the South are elements contributing to high levels of inter-community conflict and threatening the last leg of the CPA process.

As the Peace Agreement was being delivered 2002–2005, similar grievances to those which had given rise to the war in Southern Sudan were surfaced in other parts of the country. The

claims of marginalization and disparities in wealth for which the southern rebels had taken up arms in 1983 were being voiced by their brethren in the regions of western and eastern Sudan. In Darfur, these grievances developed into a full-fledged rebellion which has spiralled out of government control, leading to massive dislocation of populations and human rights violations, including widespread international claims of genocide, attracting an unparalleled international media attention.

Darfur is currently the most war-affected area in Sudan and its history of conflict is well known. Although a Darfur Peace Agreement (DPA) was signed between the government of Sudan and the Sudan Liberation Movement/Army (SPLM/A) in May 2006, no significant progress has been made in the dual objectives of peace and development, as the conflict has not yet come to an end.

Of particular importance for the position of the UN in Sudan, the Darfur conflict and UN's handling of it led to the expulsion from Sudan of the Special Representative of the Secretary General, Mr. Jan Pronk, and subsequently to the International Criminal Court's (ICC) indictment of President al Bashir. This conflict with the Sudanese government made it difficult for the UN to implement the electoral and human rights responsibility mandated by various Security Council Resolutions, not least after the ICC issued an arrest warrant against President al Bashir in March 2009 (see later).

3 Program Background

3.1 UN policies and decisions

Two of the crucial elements in the implementation of the CPA have been the promotion and protection of civil rights, and the holding of elections. Both are defined as prominent UN responsibilities in Security Council Resolution 1590 (2005) establishing the UN Mission in Sudan (UNMIS), approved shortly after the signing of CPA early in 2005¹.

Elections

As stated, it is a commonly held view that elections were more or less imposed on the two parties in the negotiations, in order to give the CPA its necessary international legitimacy. Neither NCP as the dominant party in the North and on national level, nor SPLM as the dominant party in the South, gave these elections particular priority.

In countries with a Security Council-based peace-keeping operation, there is usually a shared responsibility between the Peace Mission and UNDP to offer support to the holding of elections, although UNDP's role may have been more prominent than normal in Sudan. On this basis, in a new SC Resolution, 1870 (2009), UNMIS was requested to "support the National Elections Commission (NEC) in preparing for credible national elections...coordinating UN election support efforts *in close collaboration with UNDP* [italics added], and ensuring that UNMIS' efforts are complementary to those of the international community and the parties to the CPA, and urges the international community to provide technical and material assistance, including electoral observation capacity as requested by the GNU, to support credible elections".

There has been general frustration in the international community about the slowness of the national partners to set up their structures and get prepared for the elections². UNDP, with its permanent presence in Sudan, started their own preparation before there was any decision about election procedures from government, let alone any request for international assistance, by elaborating its Project Initiation Plan, with some sort of a risk management strategy. The donor community had also started to prepare its plans in advance of any formal request.

NEC was formally appointed in November of 2008 but only began functioning in January of 2009, and a formal request for assistance reached UNDP in April. This gave the international community only one year to prepare and implement its support to this extremely

¹ The two relevant paragraphs of this Resolution state UNMIS' tasks as follows: "(ix) To ensure an adequate human rights presence, capacity, and expertise within UNMIS to carry out human rights promotion, civilian protection, and monitoring activities; (x) To provide guidance and technical assistance to the parties to the Comprehensive Peace Agreement, in cooperation with other international actors, to support the preparations for and conduct of elections and referenda provided for by the Comprehensive Peace Agreement;

² The considerations in this chapter are based on in-depth interviews with UN and diplomatic officials involved in the election process, in Juba and Khartoum (see list of interviewees)

complicated election process. At this time, NEC had no real structure apart from the commission members, but with a composition that was thought to represent a good political balance and high-level competence in spite of its high average age. Serious negotiations between the UNDP and NEC only started in September 2009, allowing UNDP to elaborate its Project Document and formally present it to donors for financial contribution. It took time for UNDP to raise the necessary funds, but in the end a budget of USD 91 million was available, with Norway contributing a total of USD 5.5 million³.

There were hence two separate legs of the UN support to elections in Sudan. UNMIS was to provide support, and for that purpose the Election Assistance Division (EAD) was established in November 2006 as an integral part of UNMIS⁴. EAD's main task was to advise and assist the national election authorities in its broad mandate to organize the election process. EAD's activities were partly *operational* (logistics, training, field coordination, information technology) and partly *external relations* (civic and voter education, public information, relations to stakeholders such as donors, NGOs, political parties and election observers). EAD also had the mandate to coordinate donor assistance in support of the electoral process. UNMIS provided EAD with an election support budget of USD 55 million.

But these resources were not sufficient and the mandate of UNMIS/EAD did not cover all areas crucial for election assistance. For this reason, UNDP established a Basket Fund for "Support to Elections and Democratic Processes". This was also formally requested, although very late, by NEC and the Political Parties Affairs Council (PPAC). This was the channel through which the UN provided additional resources to the elections, with Norway as one of the contributors.

These two parallel structures, although complementary, led to considerable frictions.

According to the UN electoral mandate, it is the Department of Political Affairs (DPA) and specifically its Electoral Assistance Division at UN HQs which has the responsibility to consider any official request for electoral assistance by the UN.⁵ UNDP wanted to be pro-

³ NOK 14 million had been set aside initially, with another NOK 20 million allocated in 2009. The UNDP Basket Fund had EU, DFID, Netherlands and Japan as the main contributors, with Norway representing 6% of the total. USAID made its own contribution of approximately USD 150 million. UNMIS had a budget of USD 55 million. The total NEC budget for the elections amounted to USD 315 million.

⁴ According to its website, EAD's role is "In coordination with the National Elections Commission (NEC), the Government of National Unity and the Government of Southern Sudan, non-governmental organizations (NGOs) and UN agencies, EAD's role is to implement the electoral mandate, monitor implementation of CPA electoral provisions by its parties, and provide technical assistance as required to the National Elections Commission and other authorities. Additionally, EAD advises the mission senior management on electoral matters. It also liaises with the United Nations-African Union Mission in Darfur on all aspects of the electoral process in Darfur, including logistical support for any UNMIS electoral operations there. EAD also coordinates with the UN Development Programme (UNDP), UN agencies, and other assistance providers." (<http://unmis.unmissions.org/Portals/UNMIS/Fact%20Sheets/FS-electoral%20Assistance.pdf> 11/06/10)

⁵ According to the UN Guidance note on electoral assistance, the main role of the Division is "to evaluate requests for electoral assistance, to identify and maintain United Nations electoral standards, to undertake needs-assessment missions, to assist the organizations of the United Nations system and other organizations in the design of electoral assistance project activities, to develop operational strategies for electoral components of peacekeeping operations, to maintain a roster of electoral experts, to facilitate the international observation of elections and to serve as the institutional memory of the United Nations in the electoral field"

active in fielding a Needs Assessment Mission in order to gain time in preparing for election assistance while the preference of UNMIS was to wait until there was a government invitation even for such mission (which is not strictly necessary). Today, there is agreement between UNDP and EAD/UNMIS that the Needs Assessment Mission fielded by DPKO/DPA according to standard procedures, came very late (April 2009 with its report only made available two months later), had a heavy military/security dominance, and failed to address in depth the important democratic and electoral-technical and capacity issues that were expected.

Apart from that formal role, DPA had no further responsibility vis-à-vis the UNDP Basket Fund in Sudan. When it comes to EAD/UNMIS, however, DPA is supposed to have a substantial role, i.a. for the recruitment of personnel. But in this case, another internal UN fault line emerged: that between the DPKO, as overall responsible for UNMIS as a peace-keeping operation, and DPA/EAD as responsible for the electoral support. It is the assessment of EAD/UNMIS that the head of DPA (Under-Secretary General/DPA) never provided the required political backing, and that DPA did not assume its responsibilities vis-à-vis DPKO in overall HQ instructions to UNMIS. Security concerns thus systematically prevailed over democratic election concerns within UNMIS.

In part for this reason, UNMIS came out as reluctant to bring up sensitive political matters with NEC, worried about “destabilizing” CPA implementation. Instead UNDP – pushed by donors – took responsibility for negotiating solutions when complications emerged, although this at times was seen by UNMIS to fall beyond the mandate of UNDP. There seems to be agreement between the two UN actors, however, that this actually had a positive impact on the end result.

One of the tricky issues was civic and voter education, where NEC was sceptical to bring in civil society. UNDP ended up being the one to promote non-governmental participation in this activity. UNDP is today of the opinion that this part of the electoral support came too late and offered too little, a position to a large extent shared by UNMIS/EAD which had urged UNDP to go more resolutely into this at an earlier point.

It is part of the picture that UNMIS was seen to have had a relatively weak top leadership, being without a deputy in charge of political affairs for more than half a year at a critical period, until the arrival of the present SRSG early in 2010. This person had access on all levels, including to the President, right from the start, though this was too late to have been used in the policy dialogue about elections.

Human rights

The Norwegian-supported human rights program in Sudan is an integral part of UNMIS.

The High Commissioner for Human Rights is the principal human rights official of the UN. Her office, OHCHR, is also the Secretariat of the most prominent human rights bodies like the Human Rights Council and its various thematic and geographical special rapporteurs and other procedures, and the treaty bodies in charge of follow-up to international human rights treaties.

As reflected in the Literature Study, the OHCHR has strengthened its field presence considerably over the last 10–20 years. In addition to stand-alone country offices and regional offices, the UN human rights mandate in conflict settings is often integrated in the

peace missions. The OHCHR says in its 2008-2009 Strategic Management Plan that *“addressing human rights issues in conflict and post-conflict countries requires concerted efforts”*, and that it for that reason *“has increased its collaboration with the UN Department of Peacekeeping Operations (DPKO), the UN Department of Political Affairs (DPA) and UN peace missions”* (OHCHR 2008-2009 Strategic Management Plan, p. 19), through human rights components of the peace missions. These components aim to prevent and redress human rights violations through monitoring, issuing public reports, and assisting in building national capacities for the same purpose. Funding comes from the UN department in charge of the mission (normally and in the case of Sudan DPKO), but additional funding may be provided by or through OHCHR. This is also the case with Norway’s support to the HR program in Sudan. The heads of these HR Sections are selected by OHCHR and are seen as the High Commissioner’s Representative in the country, and they report both to the SRSG heading the mission and to the High Commissioner.

OHCHR puts a strong emphasis on the interdependence between HR and democracy. In the 2005 Plan of Action, the High Commissioner stated that *“human rights standards must underpin any meaningful conception of democracy, so that physical integrity is protected and freedoms of participation, elections, assembly, association, opinion, expression and information are guaranteed”*.

Sudan is one of approximately 15 countries where there is a UN peace mission with a HR component. Since the January 2008 establishment of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), with its own HR unit, UNMIS has been concentrating on monitoring and promoting human rights in both Southern and Northern Sudan, but excluding Darfur. Human rights officers are based in twelve states around the country (including Darfur), the principals being in Khartoum and Juba.

When UNMIS was established in 2005, it was mandated to support the implementation of the CPA i.a. by ensuring an adequate human rights presence. OHCHR supports the work of the human rights component of UNMIS (hereafter referred to as UNMIS/HR) through technical cooperation projects and by providing guidance and expert advice on specific human rights questions. UNMIS/HR monitors the human rights situation, supports the rule of law and national institution-building, advocates for judicial and legal reforms, promotes international human rights standards and implements technical cooperation projects. OHCHR and UNMIS assisted the Government of National Unity (GNU) and the Government of Southern Sudan (GoSS) in establishing national human rights institutions in accordance with the Paris Principles. OHCHR supported the work of the mechanisms mandated by the Human Rights Council, including the Special Rapporteur on the situation of human rights in the Sudan.

According to the Strategic Management Plans 2008-2009 and 2010-2011, OHCHR committed itself to continue providing assistance to, and build the capacity of, both the GNU and GOSS to protect and promote human rights in all parts of the country. A specific task during this period would be to ensure freedom of expression, association and assembly and other political rights before and during the elections in 2010 and the referendum in 2011.

3.2 Norwegian policies and decisions

Norway was one of the main international partners in the negotiation process leading up to the CPA. As a consequence, Norway, along with UK and US, comprised *the Troika* that had the main international responsibility for the support to the implementation of the CPA. Moreover, Norway is also one of a slightly larger group of countries forming the CPA's Assessment and Evaluation Commission (AEC), and chaired the Commission 2005-2007⁶.

Elections

According to the original timetable, elections were to be held in 2009. These elections would require comprehensive international support, both in terms of technical advice, financing and monitoring. There was never any doubt that Norway would contribute its share of such support. For Norway, it was not seen as an alternative to support the NEC directly, as this would be too complicated both politically and in terms of financial and auditing control. It was Norway's view that the UN anyway would have to take an active part in these elections, and it was clear that the UN would coordinate the international support. For these reasons, the UN channel was an obvious one for Norway to choose, as stated in an MFA strategy document from March 2008. A Norwegian diplomat in Khartoum seems to have been actively involved on the donor side in the design of the basket fund.

In comparison to what is the case for other countries and regions, the MFA has an exceptionally strong structure to back up its support to the Sudan peace and democracy process. There is a separate, although informally structured, "Sudan Team" at the MFA with 6–8 professional staff working full time on this task (including a Special Advisor following the AEC full-time). There are 7–8 diplomatic envoys at the Embassy in Khartoum. Norway was also one of the first countries to set up a General Consulate in South Sudan's provisional capital Juba, with 4–5 diplomats in charge of a political mandate. Senior people in this "greater Sudan team" emphasize that Norway (until recently) may have had a better continuity and thus institutional memory than the other Troika members (although there has recently been considerable turnover), and that this together with the active interest of the political leadership both on the Foreign Affairs and International Cooperation side has given Norway a particularly active role in the Troika.

According to most sources, Norway has been an active and constructive member of the Donor Group that was established for the Basket Fund. Some of the major funders did irritate both the UN and NEC with repeated and detailed questioning of financial matters, demanding the UN (and particularly UNDP) should do more to defend their interests as donors vis-à-vis NEC.⁷ The Norwegian Embassy did not want to be part of this approach,

⁶ The AEC is mandated to monitor and support the implementation of the CPA. The members of the AEC are representatives from the Government of National Unity; representatives from the Intergovernmental Authority on Development (IGAD) (Kenya and Ethiopia); and representatives from Italy, the Netherlands, Norway, the UK and the US. The African Union, the Arab League, the EU and the UN have observer status.

⁷ This was i.a. based on donors' complaints that considerable resources had been confiscated by the GoS when 13 western humanitarian organizations (among them the Norwegian NRC) were expelled from Darfur following the ICC indictment of President al Bashir in March 2009.

and is commended by both the UN and NEC to have taken a far more pragmatic and constructive view. NEC's Secretary General said bluntly that "Norway was the best of the Basket Fund donors".⁸ On this technical level, Norway's participation is therefore highly appreciated, although the downside may have been that Norway abstained from raising legitimate critical questions about the election budget.

Norway was *not* part of the Policy Committee set up among donors and government for the purpose of jointly overseeing the overall political aspects of the election process, co-chaired by the NEC Chairman and the SRSG (Head of UNMIS), where only the EU, UK, Dutch and US Ambassadors represented the donors (assumably selected on the basis of the size of their donations). Norway was thus the only Troika country not to be part of this Policy Committee. Since the Troika as such is not reported to have played any visible role *on the ground* regarding the management of the elections,⁹ Norway seems – somewhat surprisingly – not to have been part of the high-level political deliberations regarding these elections.

That being said, the Policy Committee does not seem to have taken the opportunity to bring up the most sensitive policy matters surrounding the elections, but rather to have spent their meetings repeating many of the same technical and financial issues that should have been solved on a technical level. The UN representatives therefore felt that very little substantial policy dialogue took place. This must be seen as a clear weakness from a democracy promotion point of view.

Initially, when Norway started planning its support to the elections, they were considered to be the most important part of a pro-democratic package. On the highest political level, Norway continued to express its concerns about the true democratic character of the elections¹⁰. What is noteworthy is that these high-level political statements by Norwegian ministers – solely or along with other Troika members – were not reflected in Norway's day-to-day handling of the election support on the ground. The view taken by the Norwegian Embassy as a member of the Donors' Group was that there would be little to gain by being more involved in policy dialogue about the democratic character of the elections. As the argument of leading Norwegian diplomats went: even if critical political matters had been raised with NEC or GoNU (or GoSS for that matter) at the highest level, it would not be expected to have any effect. The somewhat fatalistic assessment was obviously that there was a very clear democratic limit to these elections: neither dominant party (NEC and SPLM) would accept to lose. For that reason, concerns about democratic deficits in the

⁸ Interview 10/06/10 in Khartoum

⁹ This observation was made by several of our UN and even NEC [?] informants. The Troika did make high-level statements, by the Ministers of Foreign Affairs, both before and immediately after the elections, ref. joint statement by US, UK and Norway on 19 April 2010 expressing deep concerns about administrative and logistical challenges, restrictions on political freedoms, limited access of observer missions, continuing: "*We regret that the National Elections Commission (NEC) did not do more to prevent and address such problems prior to voting. We strongly encourage the NEC to address in good faith any legitimate disputes effectively and impartially.*" [http://www.regjeringen.no/en/dep/ud/Whats-new/news/2010/sudan_common.html?id=601009#]

¹⁰ Ref. Statements from Minister for Development Cooperation Solheim in Khartoum and Juba in January urging "the parties to ensure [the CPA's] full implementation ... holding credible elections" [http://www.norway-sudan.org/News_and_events/Visit-of-Minister-of-the-Environment-and-International-Development-Erik-Solheim]

organization of the elections were expected to fall on deaf ears. The leading UN election actors in Sudan noted with considerable frustration that the only predominant concern of all diplomatic parties, including Norway as part of the Troika, was to make sure that elections were held, so that another element of the CPA could be “ticked off” without rocking the boat. Consequently, no real space was seen for any democratic improvement of the elections.

In South Sudan, no specific policy group involving the donors was organized at all, with the UNDP questioning the competence of donor representatives in Juba to play such a role. At least in the case of Norway, the General Consulate should have the necessary mandate to take part in policy dialogue.

Human rights

Norway has for many years been among the principal donor countries to OHCHR. Compared to other “like-minded donors”, Norway used to have a relatively high percentage of earmarked contributions, something the OHCHR for efficiency reasons strongly encouraged the donors to avoid. The reason for such earmarking was to “offer political signals”, i.e. to express clear political priorities. The main part of the earmarked contributions went to a small group of country operations.

As part of the annual voluntary contribution from Norway to OHCHR, NOK 5 million was earmarked for the Sudan operation in 2007, 2008, and 2009. The Sudan operation was the only among the earmarked country programs not directed to stand-alone offices, or in other words the only specially prioritized HR operation as part of a UN peace mission. This was a decision taken by MFA/Oslo in consultation with the Permanent Mission in Geneva. It is unclear whether and to what extent the Embassy in Khartoum was consulted.

It is argued in MFA’s internal decision-making documents that the UN has succeeded pretty well in integrating HRs in the UN integrated operations (i.e. peace missions), but that this has been far more difficult in relation to the ordinary UN country teams. Against this background, it is interesting to note that the only “peace mission country” where Norway saw it as politically important to earmark a HR contribution while generally moving away from earmarking, was in Sudan¹¹.

The earmarked amount for 2009, however, was never spent in Sudan but eventually reallocated to another field mission. As late as mid 2010, OHCHR HQ made MFA/Norway aware of the fact that UNMIS/HR had had no capacity to implement the Norwegian funds the previous year. The reason given was that UNMIS/HR’s implementation capacity had been seriously undermined by the March 2009 arrest warrant issued by ICC against President Bashir in a follow-up to the indictment the previous year, when this resulted in the expulsion of many of UNMIS/HR’s CSO counterparts and a complicated relationship to the GoS. What is important to emphasize in this context is that the MFA in Oslo and the

¹¹ These considerations are based on MFA documentation, concretely the annual appropriation letters to OHCHR. Norway has gradually accepted the strong wish of OHCHR to give up country earmarking while steadily increasing its level of voluntary contributions to OHCHR, where Norway is the fourth biggest donor in absolute terms (ref OHCHR Annual Report 2009). For 2010, earmarking for specific field operations was reduced from NOK 21 mill to NOK 6 mill, while overall funding increased by 20%.

Norwegian UN Mission in Geneva until now has maintained the human rights operation in Sudan as one of the highest priority beneficiaries of Norway's support through OHCHR, and that Norway has remained the most eager donor to this operation for several years.

There seems to have been no consideration, neither on the UN nor on the donor side, of how this channel could have provided the entire donor community with similar synergy potential along with the support through the Basket Fund, for enhancing the democratic character of the elections. It is the mandate of the OHCHR (and by implication UNMIS/HR) to monitor and protect the respect for civil and political rights during elections. In countries with OHCHR stand-alone field offices, close coordination between these offices and the diplomatic community may and do actually provide both parties with a considerable leverage in policy and human rights dialogue with government. This potential does not seem to have been taken sufficiently advantage of in the case of Sudan.

It is also interesting to note the difference in embassy involvement in human rights programs initiated and financed by the embassy in any given country, vs. programs financed by Oslo through the Geneva Mission, in order to earmark contributions to OHCHR for specific countries. The first channel obviously gives the embassy much more feeling of property and responsibility to follow up and maintain a close liaison and policy dialogue with the UN HR mission, whereas in the case of Sudan, the Embassy has for the most part been very little involved in the work of UNMIS/HR.

What is striking with the dominant Norwegian support to the OHCHR program in Sudan is that the present Head of the program (who took over in October 2009) has been unaware of its existence. It is unclear whether this also has been the case with his predecessors. The first condition for active engagement between the Norwegian Embassy and UNMIS/HR would have been consciousness on both sides about the heavy Norwegian support to the program. This has obviously been absent¹².

3.3 Program Purpose

Elections

As pointed out previously, Norway contributed a total of NOK 34 million for the "Support to Elections and Democratic Processes in Sudan". The purpose of the project was to "*support the democratic process in Sudan, to support the holding of elections in 2010, which are recognized as transparent and credible elections by national and international observers; and to promote the participation of voters and other civil society stakeholders in all the democracy strengthening events.*" The project is part of the democratic governance component of UNDP's program of assistance to the GoNU and GoSS in the implementation of the CPA. The duration includes an eight months post-electoral period (until the end of 2010), in order to ensure a proper transition to more long-term activities, such as training of elected MPs.

¹² OHCHR HQ notes in a comment that communication between OHCHR HQ and UNMIS/HR with regard to the Norwegian funding "appears to have been" insufficient. But there has been a similar insufficiency in the communication between MFA in Oslo and the Embassy in Khartoum, all leading to lack of consciousness about this earmarked funding, which in the first place was motivated by a strategic priority from Norway.

UNDP is emphasizing that their support must be seen as support to the more comprehensive *electoral cycle*, not only the *elections as an event*. This is based on the increasing understanding that this wider approach is necessary in order for elections to have a sustainable impact on democratic development.

It is obvious that UNDP had more autonomy than UNMIS to work with CSOs, and claims to have missed back-up from UNMIS when conflicts emerged with NEC and particularly with executive government institutions.

It is important for UNDP to see itself, in contrast to UNMIS, as an instrument that is in Sudan to stay for the long haul, and therefore has a more long-term objective of strengthening democratic institutions and processes. Elections are but an element, although an important one, in this context. The perceived logic of the CPA is that the “interim period” between signature and full implementation provides for key democratic processes (including elections and referenda) as a means of consolidating the agreement and establishing institutions of sustainable peace. UNDP notes that it “*emphasizes institutional capacity building for the NEC, PPAC, and other government institutions; encourages sustainable electoral policies and the participation of traditionally disadvantaged groups. Of particular importance to the post-conflict environments, the electoral cycle approach promotes stability and accounts for the critical post-electoral phase which sets the stage for the next election thereby strengthening the democratic process*” (project document p. 9).

UNDP’s post-election efforts will now capitalize on the well-grounded understanding of the challenges facing the democratic transformation process. This has been acquired as a result of fulfilling the election mandate, and UNDP will try to maintain the momentum it generated. Post-election efforts currently seem to be channelled along two lines, with one line looking back to assess and evaluate the recently concluded activities of the Elections Program, and a second line undertaking the necessary studies and assessments which would inform longer term programs. UNDP is developing its framework for future support to democracy based on these assessments and studies. However, such efforts will likely remain limited ahead of the referendum scheduled to take place in early January 2011.

The scale and complexity of the Sudan elections was said to “*challenge even well-resourced institutions in countries with well-developed infrastructure*” (project document p. 6). A total of 16,500 polling centres were set up and a total of 105,000 polling staff were employed, in a country where the illiteracy rate is about 40% (50% among women and 30% among men), in some areas reportedly as high as 70–80%, and where basic infrastructure is missing in most of the rural areas. It was obviously a major logistical challenge.

60% of the electoral budget was supposed to go to the North, 40% to the South. A High Commission for Elections was set up in each State, reporting to NEC and directly responsible for voting procedures. In addition, there was an electoral High Committee for the South, with a very limited mandate and also limited resources. In general, according to the UNDP Office in Juba, too little resources were furnished by NEC to the South to meet the gigantic logistical challenges there; and what came arrived very late.

The project has consisted of a very comprehensive set of activities, with relevance not only for elections but actually for all the democracy dimensions we are dealing with in this evaluation exercise. This can be seen from Matrix 1 in Attachment A: civic and voter education is relevant for at least five of the democracy dimensions, the same is the case for

media training/monitoring and domestic observation, whereas NEC and PPAC support is more targeted to the electoral process but still has secondary effect on other dimensions. Human rights, obviously along with electoral processes, are supported by all components of this project, while the remaining dimensions (with the exception of access to justice) are all supported by three or more components. This is hence a project with considerable crosscutting and synergy potential for all dimensions of democratic development.

Human Rights

Norway's NOK 5 million annual earmarked contributions 2007-2009 to OHCHR represented nearly half the agency's Sudan budget.

The CPA and the Interim Constitutions contain basic human rights provisions which include: free will of the people as a basis of governance; decentralization through power sharing; respect for human rights and the rule of law; the right to self-determination for the people of Southern Sudan; religious freedom and tolerance; gender equality, and advancement of economic and social rights, among others. These rights are adequate to lay a foundation for human rights observation in Sudan. However, many domestic laws in Sudan still require amendment in order to promote and protect these rights.

Sudan is also a signatory to a number of international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and the Convention against all forms of Racial Discrimination (ICERD). It has also ratified the African Charter on Human and Peoples' Rights and recently the Convention on the Rights of Persons with Disabilities, along with the Optional Protocol, allowing for individual complaints. In 2006, Sudan ratified Protocols I and II of the 1949 Geneva Conventions. However, Sudan has not ratified CEDAW, and is in default of its reporting obligations under a number of core treaties. In 2007, Sudan submitted its 3rd Report to the Human Rights Committee on the Convention of Civil and Political Rights after 9 years of default. In its concluding observations, the Committee raised a number of concerns and advanced recommendations and set July 26 2010 as the due date for the next periodic report.

Within this context the Security Council Resolution 1590 mandates the Human Rights Section of the UN Mission in Sudan (UNMIS) to assist in the implementation of the 2005 Comprehensive Peace Agreement (CPA). UNMIS Human Rights programs were managed by a HQ office and staff in Khartoum, North Sudan whilst satellite offices consistent with the political sub-divisions of the CPA were maintained in the Transitional Areas (Abyei, Blue Nile State and South Kordofan) and in Juba, Southern Sudan.

Additionally following the Security Council Resolution 1706 (2006) which expanded the UNMIS mandate to include deployment in Darfur, UNMIS Human Rights section fielded staff to Darfur and began monitoring operations in that region as well. However in January 2008 and following the establishment of the separate UN and African Union mission in Darfur (UNAMID), UNMIS Human Rights operations retracted from Darfur and were able to concentrate exclusively on monitoring and promoting human rights in both Southern and Northern Sudan (excluding Darfur), as envisaged by the CPA.

The Khartoum and Juba offices carry out advocacy activities at national and regional levels, respectively, on issues related to human rights concerns. The Khartoum office also handles

administrative and human resource support for field offices. Offices in the field undertake a number of activities including monitoring, reporting and investigation, which often leads to advocacy with local authorities. Monitoring activities also inform capacity building projects and enable human rights teams to identify areas of training for local authorities and civil society organizations.

4 Documenting Program Results: Outputs

4.1 UNDP's election basket fund

The UNDP basket fund supported activities in six areas which we describe in terms of *output* below, based on the project's monitoring framework, with definition of baseline, indicators and target for each output. This matrix has served as a basis for the quarterly reporting, which is the source of the following description.

The basket fund indeed allowed a massive donor involvement in the organization of the 2010 elections, without which the holding of these elections would have been unthinkable.

Civic and voter education

The civic and voter education component was organized with a view to enhance citizens' appreciation of their role in electoral and broader democratic processes.

This component was intended to be largely implemented by civil society, and thus to *empower* civil society. But UNDP had to work closely together with NEC and UNMIS on this task, giving way to NEC's condition to oversee production of all education material. UNMIS/EAD "was not thrilled" by this insistence but saw it as necessary in order to maintain the relationship with the election management body.

Prominent representatives of UNDP claim that if UNMIS had had the sole election responsibility in the UN system, there would have been no CSO involvement at all. UNMIS/EAD responds to this that in such a situation, they would indeed have engaged civil society themselves. Actually, UNMIS/EAD claims to have urged UNDP at an early point to start capacity-building efforts with civil society.

An attempt was made already in 2008 to invite local CSOs through a tender process, but proposals were not considered to be up to required quality. A different approach was chosen, by inviting the inter-governmental International Organization for Migration (IOM) to identify suitable organizations¹³. Implemented first during the November 2009 voter registration period, Sudanese civil society and international stakeholders communicated dissatisfaction with the low level of public information and civic and voter education activities. Corrective action was taken, i.a. by strengthening the dissemination of messages (e.g. through the mass media) and focusing more on face-to-face activities.

Grants to CSOs through IOM were expanded, leading to the production and dissemination of public information materials and to strengthened planning and coordination between the NEC and the state high committees. A total of 10 medium size and 90 community-based organizations were selected, many of which saw this as a unique opportunity to work directly and openly with local communities on democracy issues. This became an important capacity building effort, where all grant recipients underwent intensive training on the

¹³ UNMIS/EAD has criticised UNDP for outsourcing this work and only act as a channel for funding this assistance, rather than bringing in its own staff to take care of it.

electoral system and the polling process, including mock polling exercises, held in collaboration between UNDP, IOM and UNMIS in February 2010. Most important of all for our purposes, it provided previously non-existing political space. 70% of the organizations expressed that they were motivated to continue working with democracy issues even after the elections.

The NGOs needed accreditation letters issued by NEC to carry out their work. There were some incidents where organizations first were excluded, followed by successful intervention from UNDP and NEC. This in itself can be seen as a positive democratic result.

The involvement of CSOs in this campaign also enabled them to take responsibility for some conflict prevention activities.

Training of media professionals; monitoring of media

This component was a combination of journalist training and monitoring of media performance during elections. The purpose was to enhance the quantity and quality of elections-related reporting. A consortium, Sudan Media and Elections Consortium (SMEC) coordinated by the Copenhagen-based NGO International Media Support (IMS), with the participation of the local NGO SUDIA (in Khartoum) and Norwegian Peoples' Aid (NPA) (in Juba), had implementation responsibility for this component.

SMEC *trained* over 350 journalists and media professionals in thirteen workshops throughout Sudan on effective election reporting. An international mentorship program was implemented with the purpose of supporting on-the-job training of local media professionals within their media outlets. Starting on 27 March 2010 and ending on 18 April 2010, twelve international "mentor" journalists from African and Arab states joined the editorial teams of 12 media houses in North and South Sudan, including newspaper, radio stations, and television.

In terms of *media monitoring*, SMEC and IMS undertook the monitoring of Sudanese media by setting up two technical monitoring stations in Khartoum and Juba, respectively, to keep accurate record of media coverage, including print, broadcast, and television, from campaigning to news reports of electoral events. 40 Sudanese monitors were trained for this purpose. The monitors measured levels of access to media by all political parties and candidates, the occurrence of hate speech in the media, the balance of gender representation, and the evidence of voter education by Sudan's main media outlets.

The general findings of the media monitoring is summarized as follows¹⁴:

- Coverage of election contestants and politicians increased considerably from February to March 2010. The tone of media coverage was generally neutral or positive with sporadic negative reporting. The National Congress Party and the Sudan People's Liberation Movement (SPLM) were the main targets of non-neutral reporting across all observed media. Usually the media outlets aligned with the NCP took a negative tone on SPLM, and vice versa; the outlets aligned with SPLM used a negative tone when covering NCP.

¹⁴ Reproduced in the first quarterly report of the Basket Fund. The SMEC final report is not yet available at the time of finalizing this Case Report.

- According to the interim reports, there was an evident increase in episodes of hate speech in the period from February to March. Increased hate speech mirrors the escalating intensity of campaign language and tone. The inflammatory language generally involved political parties and candidates that were both the main sources and the main targets. Defamation was the most common type of hate speech with accusations and mutual blaming taking place between contestants. A slight increase in calls for violence was observed and the print press was the most frequent channel through which the messages were conveyed.
- According to those involved with this component, it is hard to determine whether the combination of training and monitoring led to improvement in the election coverage in terms of improved enjoyment of press freedom and objectivity in the performance of the media practitioners. What can be ascertained from the Media and the Elections Project is that the monitoring aspects of the project provided a solid basis upon which it was concluded that the media was biased in its coverage of the elections and provided more space to the incumbent Presidents and their parties in the North as well as in South Sudan. Monitoring of the media coverage of the April 2010 elections in Sudan has also provided a baseline against which future elections coverage may be compared and contrasted. The media in Sudan continue to be restrained through legislation which is neither conducive to freedom of speech nor access to information, and is further muzzled through censorship by the security organs despite the unconstitutional nature of the legislation that permits censorship of the media.

Support to domestic observation of the electoral process

The purpose of this component was to support and train a network of CSOs for election monitoring, not only for the 2010 elections but also with the aim of developing skills to observe future elections and thus promote transparency and general confidence in the democratic transition.

Also for the purpose of setting up a network for domestic observation, UNDP chose to go via a third party. The Carter Center (TCC) was invited to handle this component, with a different management structure from the one in charge of TCC's international observation. TCC trained almost 3,900 domestic observers in the North and 860 in the South, affiliated with three Sudanese CSO networks. To undertake this large-scale training, TCC designed a training program which started with two multi-day "training-of-trainers" sessions in Khartoum and Juba. A total of 150 trainers participated in this first level activity. Affiliated with the CSO networks, these trainers represented all Sudan's States including the three Darfurs. Following the initial training-of-trainer activity, individual trainers gave workshops to domestic monitors at state capitals and in localities.

The trained domestic observers were able to monitor 25% of all of Sudan's polling stations: fixed observers were deployed to 10% of polling stations, whereas mobile observers covered another 15%.

Also for this component, there was tension with the Security Service. In spite of UNDP intervention through NEC, one of the leading expatriates in charge of the program was obliged to leave the country.

There was criticism from academic and civil society representatives that many observers played no really independent role at the polling stations.

Support to NEC, Sudan's Election Management Body (EMB)

Support to the National Elections Commission (NEC) was crucial for the holding of these elections. It included the procurement of material for registration and polling, logistics and operational planning, civic and voter education (shared with civil society), training and capacity building to NEC on all levels, coordination of international assistance.

There seems to be a general consensus among the international actors that NEC was never empowered by the GoNU and provided with the necessary resources to act as a strong and independent EMB, and as such fulfil the conditions for the management of free and fair elections.¹⁵ The technical capacity was weak, there was weak communication with the political parties (which may have been one of the reasons why SPLM chose to withdraw its presidential candidate for national elections), and there was constant pressure from security to diminish the transparency of the elections. Most observers agree that the GoNU and the hegemonic party, NCP, did not want a strong NEC, simply because it did not risk elections that could threaten its power position. In this regard, there was probably a *fait accompli* with GoSS/SPLM, which in the same way wanted their power to be confirmed in the South.

As the polling dates approached, it became obvious that NEC had badly insufficient capacity to manage the elections on its own. Advisors from UNDP, UNMIS and the USAID-supported International Foundation for Electoral Systems (IFES) met with NEC on a daily basis from January through March 2010 to discuss and decide on critical procedures for candidate nomination, campaigning, polling, and announcement of election results. With the support of advisors, NEC developed a strategy to select, train, and deploy over 100,000 polling staff to administer all Sudan's polling stations in April 2010.

UNDP and international advisors supported NEC to establish a system of accreditation for domestic and international observers, political party agents, and the media to be present at polling stations.

The procurement operation was gigantic. Election material (ballot boxes, ballot paper etc.) amounted to a total of 135 million pieces, requiring a massive transportation and warehouse management operation which would not have been possible without a strong hands-on role played by the international actors, and in particular by putting the entire UNMIS logistical apparatus at the disposal of election organizers. This is why it can be unequivocally stated that UN's role was absolutely unavoidable for the elections to be organized.

Support to the Political Parties Affairs Council (PPAC)

PPAC is responsible for the registration of political parties in Sudan, and sees to it that the parties work in accordance with to the Constitution and the Political Parties Act.

UNDP supported PPAC with technical advice to develop its operational plan, train political party agents, and increase the capacity of the Council to ensure successful delivery of its

¹⁵ Ref. IDEA Electoral Handbook on the optimal requirements of a well-functioning EMB

elections-related activities. 200 representatives of 76 different political parties were trained, in a program implemented by the US-based International Republican Institute (IRI).¹⁶ IRI produced, and UNDP printed a political party agents training manual for the State High Committees which were distributed in the South (20,000 English copies and 5,000 Arabic copies) and in the North (8,000 Arabic copies).

As part of this endeavour, UNDP supported the establishment of the PPAC headquarters offices in Khartoum and Juba through rental of office space, equipping the offices with furniture and ICT equipment.

Alongside these training efforts, UNDP supported PPAC to develop a Code of Conduct for campaigning, facilitated by the African Union, and signed by the political parties. UNDP also procured 8,000 copies of the Political Parties Act for distribution by PPAC.

Support to other stakeholders

Other stakeholders that were supported were women and youth, security agents, legal practitioners, special groups in the South, and a group involved in conflict prevention.

Women's participation: UNDP, in partnership with UNIFEM which in turn worked through IRI, was supporting women as voters and as candidates. Activities included civic and voter education encouraging women to vote, awareness raising programs, workshops focusing on women's rights and leadership opportunities, and capacity development for women candidates. A handbook for women candidates in both Arabic and English called "*Toolkit on Election Campaigning and Public Speaking*" was produced, printed and disseminated to complement a series of training workshops to support campaigning and public speaking among female candidates.¹⁷

Training of youth leaders, in a first-voters program, was implemented by Friedrich Ebert Stiftung in cooperation with UNMIS/EAD.

In terms of *security*, UNDP worked with UNMIS/UNPOL and UNAMID police to train Sudan's police force for their elections-related role. In total, 34,144 police officers were trained, in the North and South Sudan and in the Darfur states. UNPOL produced 27,000 pocket-sized copies of a "*Handbook for Elections Security*" as a quick reference guide outlining basic procedures and recommended police conduct during polling days. It is noteworthy that no serious election-related clashes seem to have taken place.

To support the *legal aspect* of elections, UNDP supported UNMIS/ Rule-of-Law to hold four workshops for select Sudanese judges from all states on the registration process, judicial observation, role of media and civil society, and election security. Additionally, specific workshops were held to train judges on the candidate nomination regulations, electoral

¹⁶ The Stockholm-based (and Norway-supported) organization IDEA ran its own training program, without UN funding, reaching a much larger number of representatives (1074) from a more limited number of parties (24).

¹⁷ A project financed by the Norwegian MFA through Norwegian Peoples' Aid to strengthen the democratic structures of SPLM, had as one of its main components a massive training program of women activists (called "Women Can Do It"). Most informed observers (e.g. from IRI and UNIFEM) seem to agree that this program had more impact on women candidates in the South than any of the UN-supported trainings (ref. Review Report on this project – Capacity Building and Strengthening of the SPLM Party; NORLAT 2010).

offences and appeals processes. UNDP also supported the Max Planck Institute to carry out a training series for 250 of Sudan's prosecutors and legal counsellors.

This is an example where support from the UNDP Basket Fund to a unit within UNMIS was necessary, because UNMIS found itself unable to support the activity. Presumably due to the ICC indictment of President al Bashir, there was so much GoNU/NCP distrust in the UN that the Rule-of-Law unit was (and is) largely excluded from working directly with the Sudanese judiciary (but direct support did take place in South Sudan).

To reach out to a *wider constituency of stakeholders in difficult-to-reach areas in the South*, UNDP funded a number of state level fora and events in the ten states. The fora and events provided a platform for the mobilization of community leaders and other interest groups towards the promotion of a peaceful campaign and election period.

For *conflict prevention*, UNDP organized a series of activities through a national partner, the Social & Human Development Consultative Group (SAHDCG). Conflict prevention forums were held in Sudan's fifteen Northern States, first for civil society, and then for political parties. Workshop topics included establishing practical dispute resolution mechanisms, how to anticipate tension and problem solution, and next steps for promoting peaceful elections. Approximately 1,000 participants attended the various workshops nation-wide.

4.2 OHCHR - Promoting and Protecting Human Rights in Sudan

The OHCHR program in Sudan was established with an eye to facilitating an understanding amongst multiple levels of Sudanese society (Government, police, security forces and civil society groups) on how the implementation of different human rights provisions would work in practice.

As early as 2004, UNMIS had established a Sub-Committee of the Joint Implementation Mechanism (the SubJIM), where members of the diplomatic community were invited to take part and bring up concerns including in the human rights area. Norway did not participate in this forum. Later, the abovementioned ICC indictment became a serious impediment to UNMIS/HR space of operation. The subsequent tensions which emerged between the government and the UN in Sudan exasperated dialogue between the parties. For much of 2008 and well into 2009, UNMIS/HR continued to seek access to dialogue with its government counterpart through the Advisory Council on Human Rights (ACHR) representing various government ministries and institutions (Security, Ministry of Interior, the Judiciary, Police, etc.), concerned with HR issues. Having made very little progress in engaging with the government counterpart, in late 2008, UNMIS/HR embarked upon the establishment of a Human Rights Forum (replacing the SubJIM) which sought to bring together different stakeholders from the UN, the government, the INGOs and the diplomatic community to discuss HR issues across the country. Norway was not part of this Forum, either. No sooner had this alternative and temporary body been formed than it began to falter as an atmosphere characterized as 'acrimonious' prevailed at the forum's meetings.

In an attempt to improve the space for HR action, UNMIS/HR put forth the idea of establishing the International Partners Working Group on HR. The group, established right before the elections, consists of the UN and the diplomatic community only, and is co-chaired by UNMIS/HR and the EU. In this group, Norway is an active partner. Quite

remarkably, this is the first attempt by UNMIS/HR to have a systematic HR dialogue with the diplomatic community without the presence of GoS institutions. Through the group, the UN may now consult on some of its most burning issues with the diplomatic community before they are taken up with the GoS. Through the forum the international community has privileged access to information about the most important HR challenges and consequently may lend a hand and get involved if they choose to. To the best of our knowledge, however, this opportunity has not been used by the diplomatic community during the three quarters of a year this group has existed. The Head of UNMIS/HR complains openly that the diplomatic missions have not taken this opportunity to give priority to human rights issues; that they have proven “reluctant to advance a human rights agenda” or to engage in HR dialogue out of political considerations and sensitivities. This is particularly regrettable – he goes on to say – in a situation where human rights issues are subordinated to political considerations as the case will be in a DPKO-led mission.

A human rights field operation representing the UN will always be confronted with the dilemma of how openly to report on its findings about HR violations in the country. This is particularly the situation in Sudan, where the UN is doing systematic monitoring all over the country, constantly documenting a large number of serious cases. Both OHCHR HQ and each peace mission have established procedures about vetting and publication of reports, but the practice is still subject to discussions about what is most conducive to the improvement of the HR situation in each country. Until late 2009, UNMIS/HR had a relatively active practice of releasing public reports, including a report on “Arbitrary arrests and detentions”, the “Report of the Independent Expert on the Human Rights Situation in the Sudan”, etc. These reports, and the procedure of periodic reporting to Geneva without prior consultation with the government, were met by strong complaints from GoS. When a new Head of UNMIS/HR arrived in October 2009, he concluded that previous practice, in the generally poisonous atmosphere that prevailed after the ICC indictment and subsequent arrest warrant, was counterproductive. He therefore got the acceptance of OHCHR HQ and UNMIS top management for a more restrictive release policy as a measure to improve the HR dialogue with government. UNMIS/HR now adopted a policy whereby no report will be released without prior consultation with government institutions through the Human Rights Forum. UNMIS/HR claims that this has opened up some new space for dialogue and engagement with GoS on HR issues. According to the new practice, weekly and ad hoc reports remain internal for the UN, with monthly reports still being shared with the diplomatic missions but not with the wider public. A public report is issued once a year.

No HR report has yet been released after the establishment of this procedure, resulting in a more limited knowledge among national and international human rights defenders about documented human rights violations in Sudan. The restrictive new policy is therefore subject to considerable criticism from the HR community, inside and outside of Sudan. It is also questioned among some of the UNMIS/HR staff, complaining that important information is being shelved and not allowed to be published.

Based on the mandate of UNMIS, the program sought to foster an enabling environment for promoting and protecting human rights across the country, by focusing on achieving eight key objectives, the outcome of which are discussed below.

Support to National and Southern Sudan Human Rights Commissions

The establishment of Human Rights commissions at both the National and South Sudan level was referred to in the Interim National Constitution as one of the by-products of the CPA. This was seen as a critical step in terms of improving human rights standards in Sudan. Such commissions would install institutions to serve the dual purpose of enhancing the government capacity to better understand HR issues, as well as implement and enforce HRs in accordance with international standards across the country.

The establishment of the independent National Human Rights Commission (NHRC) has so far not materialized. UNMIS/HR claims there has been no political will on the part of any of the two CPA partners – perhaps for different reasons – to work together to appoint the Commissioners. The hegemonic power group in the North has been particularly resistant to allow the security apparatus being subjected to the scrutiny of an independent HR Commission. The conflict sparked by the ICC indictment has also been a factor.

In Southern Sudan, the UNMIS/HR program has been much more successful with the establishment of an interim Southern Sudan Human Rights Commission. The Commission was appointed by Presidential Decree as an interim arrangement until permanent legislation procedures are established in South Sudan. In order to bring the status of the HR Commission in accordance with the Paris Principles – the agreed international guidelines for national HR institutions – a permanent Commission will later have to be elected by the Southern Sudan Legislative Assembly (SSLA). Parliament. In spite of this shortcoming, the Commission is active and has submitted its first annual report to Parliament.

The Commission in South Sudan has five members (Chair, Deputy Chair and three members), and it has managed to set up offices in eight out of ten states. UNMIS/HR supported the establishment, along with UNDP and some embassies. 80% of the funding is provided by government, 20% comes from donors (including Norway). Although the institution is still quite weak, the Interim Chair insists that it has developed a certain capacity to monitor HR violations, and that it played an active role in election monitoring. A specific report will be submitted to SSLA regarding the HR challenges found during the election campaign. Claiming to have good relations with media, the Chairman of the Commission states that the Commission is more visible and has more leverage than its moderate resources should indicate.

Support and Law Reform Advocacy with Parliamentary Committees

The effort with Parliamentary committees of the National Assembly in Khartoum and the SSLA in Juba was focused on undertaking reviews, facilitating discussion and building capacity of the Legislature to support the process of law reform from a Human Rights perspective and to be in harmony with the Bill of Rights and Human Rights standards.

UNMIS/HR facilitated the strengthening of the legal framework for the protection and promotion of human rights through technical advice in the review of law reform at national, South Sudan and State levels: draft bills were analyzed and recommendations were made and followed up in meetings with relevant National Assembly committees. The common objective was to bring the law text in conformity with the CPA, the Interim National Constitution and international human rights treaties ratified by Sudan. UNMIS also facilitated the ratification of international human rights treaties by the Government, most

recently the Convention on the Rights of Persons with Disabilities, along with the Optional Protocol.

Several crucial laws have been adopted by Parliament during 2009 while UNMIS/HR has provided its assistance and advocacy, including: the Trade Unions Bill; Popular Consultation for Blue Nile and Southern Kordofan States Bill; Abyei Referendum Bill; Child Bill; Regulation of Prisons and Treatment of Inmates Bill; National Security and Intelligence Bill. Others that have been signed by the President and passed into law include the Southern Sudan Referendum Bill; Criminal Acts Amendment; Criminal Procedure Amendments Act; Civil Procedure Amendments Act; Press and Printed Materials Act; National Land Commission Act; the Independent Human Rights Commission Act. On the policy level, UNMIS supported the drafting of the policy and National Action Plan on violence against women, but this has not yet been approved by the government.

When these bills were finally passed after a great deal of bargaining between the two ruling parties, conscious about the HR requirements, the most crucial of them (such as the Security Bill, the Press and Publications Act and the Humanitarian Act) still ended up with articles and clauses which are in blatant contradiction of the Interim Constitution, general human rights standards and a number of international treaties.

It is obvious that compromises in the lawmaking had to be made to meet the CPA timeframes ahead of the elections and the referenda. The problem is that all the non-constitutional compromises in the end will cause a relapse and degeneration of the democratic reforms that were heralded by the CPA.

For law reform to be effective, it must be accompanied by reform in the Judiciary, which has not paid attention to claims in internal UNMIS/HR reports about the unconstitutionality of some of these laws. So in cases where bills had been passed and civil society had mobilized to challenge these laws in the constitutional courts, the courts were less keen to act and take any serious measures to investigate matters or make a ruling.

Awareness raising with Sudanese law enforcement officials

Considerable work has been carried out under this heading. Human rights as a topic has been incorporated in all modules used by the UN Police in the training of the police both in the North and the South. These modules are being taught by UNMIS/HR officers. The same topic is also incorporated in the training of corrections officers, done in conjunction with UNMIS/RoL. UNMIS/HR has also produced two training manuals, for the police in the North and the South, respectively. These manuals based on the Interim National Constitution (INC), relevant laws and international standards have been endorsed by the police authorities in both regions, distributed to all police stations, and is being used as a tool for training of trainers.

A report by the Independent Human Right Expert on Sudan, Mr. Justice Mohamed Chande Othman following his visit in January 2010 to Sudan states that *“in collaboration with the UN and other international partners, the police, prosecutors, prison staff and other law enforcement agencies have received training and awareness raising on human rights and international humanitarian law through the assistance of a technical cooperation project funded by the Government of Switzerland”* (no reference can be found here to the Norwegian funding of the program).

Strengthening capacity of civil society

UNMIS/HR also provided training and support to civil society organizations, including women's groups, lawyers and other stakeholders to enhance their capacity in the promotion and protection of human rights, including engagement with the Universal Periodic Review (UPR) were Sudan will be up for review in 2011. The Unit reports to have trained over 500 civil society actors from over 250 organizations in a total of 57 workshops all over Sudan, including in each of the ten states of Southern Sudan, in the three states of the Transitional Areas, and in four states of Northern Sudan including Khartoum and Port Sudan.

Workshops and training sessions conducted in 2009 covered various topics such as law reform, basic human rights awareness, women's rights, treaty reporting, establishment of a national human rights commission, monitoring and reporting, freedom of expression and the rights of people with disabilities. Local radio stations in Southern Kordofan, Damazin and Malakal have been broadcasting weekly shows in Arabic on various human rights issues across the country. Radio Miraya, the UN-run radio station seen as the leading news conveyor in the South (but without license to broadcast in the North), while not yet hosting a weekly show on human rights, has been used regularly, in particular by the Juba human rights team to raise awareness about specific human rights issues and human rights events.

A total of 28,750 publications (including posters and T-shirts) funded by TCP were produced and printed inside Sudan (e.g. for International Women's Day; copies of the Universal Declaration of HR for workshops and International HR Day, etc.).

The 2009 ICC arrest warrant against President al Bashir dealt a blow to the work of civil society in Sudan. In direct response to the court ruling, GoS expelled 13 international NGOs (including the Norwegian Refugee Council (NRC) – which along with others expelled from Darfur later re-established itself in South Sudan), and closed three national human rights NGOs. The ICC decision also led to a wave of arbitrary arrests and detentions, even of some UN staff members. With these events, UNMIS/HR lost many important partners in the civil society.

There is still a question about how successful the UNMIS/HR has been in establishing itself as a reference point for the *remaining* civil society concerned with human rights issues in Sudan. In our interviews with CSOs in Khartoum¹⁸ as well as in Juba, the impression was that they had very little knowledge of UNMIS/HR and their work and mandate. E.g. there seems to have been little pro-activity in bringing the civil society on board in the preparation of the important UPR.

Support with treaty ratification and reporting obligations

Throughout 2009, OHCHR supported the mandate of the HRCouncil-appointed Special Rapporteur on the situation of human rights in the Sudan, and helped her to examine,

¹⁸ For instance, we held a focus group meeting with five organizations in Khartoum, selected by IOM because they had been particularly active in the civic and voter education program under the UNDP Basket Fund. These are typically the organizations taking advantage of the new political space opening up during the election process – so to say the new generation of human rights defenders after the silencing of many previous HR organizations and activist. They had hardly any knowledge of UNMIS/HR.

monitor, advise and publicly report (during mission 25 May – 5 June 2009). UNMIS/HR contributed to this through provision of administrative and logistical support, technical advice and facilitation of the visits of the Special Rapporteur.

During the visit, the Special Rapporteur undertook missions to North, South Sudan and Transitional Areas and gathered first-hand information through her meeting with witnesses, victims and local leaders. The Special Rapporteur submitted her report to the Human Rights Council (A/HRC/11/14 from June 2009). Her findings highlighted the need to improve the human rights situation in Sudan. UNMIS/HR has used the reports of the Special Rapporteur as an advocacy tool vis-à-vis the national stakeholders, and taken advantage of the space opened up by meetings of the Special Rapporteur with various interlocutors for continued dialogue etc.

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was ratified by the Sudanese government on 24 April 2009. UNMIS/HR in collaboration with civil society organizations have implemented a number of awareness raising activities with key partners, and consulted on strategies to facilitate the implementation of the Convention in Sudan. Sudan has expressed intents to ratify CEDAW with reservations, but is yet not clear about its reservations.

Gender and elimination of violence against women

UNMIS strengthened the capacity of relevant national and local actors by supporting the Unit for Combating Violence against Women and Children in the Ministry of Justice, other relevant government actors, women's groups and other civil society actors through trainings and collaborative activities. But other highly relevant women's organizations that we met in Khartoum had no knowledge of the work done by UNMIS/HR in this regard.

Capacity strengthening of UNMIS Human Rights Officers

To enhance its capacity to implement its program, the staff of UNMIS/HR needed to be trained. Hence, the Section organized a comprehensive training program to improve skills of staff in the areas of monitoring, analysis, report writing, and advocacy on human rights.

5 Program outcomes

5.1 The basket fund

There has been no ongoing reporting of Basket fund achievements on outcome level, but an assessment can be made of the Basket fund against the established project purposes:

Support the holding of elections: There is agreement that without the UN support it would never have been possible to carry out these elections, and that UNDP with its basket fund had a more independent position vis-à-vis NEC than UNMIS, enabling it to widen the democratic scope for non-state actors and thus enhance the democratic process during the election period. What remains to be seen is how sustainable this enlarged scope will be. There are some signs that political openings during the election campaign may be rapidly closing again. This is particularly important to observe regarding CSOs, independent media actors and opposition political actors that were given the opportunity to operate relatively freely, but may risk being repressed in the aftermath of elections and next year's referendum.

Elections recognized as transparent and credible: There is general agreement among the observers (international and domestic) that there were important flaws in the elections and that they fell clearly short of international standards and even domestic expectations. But even so, they did represent an important step forward. Perhaps these elections may be said to have been as democratic as it was possible under the prevailing circumstances.

Promote the participation of voters and other civil society stakeholders (including media) in all the democracy strengthening events: It is reasonable to conclude that this took place to the extent possible. On some occasions (as with CSO participation in civic and voter education and domestic observation), the project hit the limits of democratic political acceptance. UNDP did take action on some of these occasions, and succeeded to influence government to change some decisions in a positive direction.

The question is whether the project, and the elections it supported in a significant way, supported the democratic process in Sudan? The answer is that yes, this took democracy an important step forward, but it is too early to say whether the step is sustainable. Without post-electoral activities, not least effective protection of the new human rights defenders who emerged during this process, elections may actually take us in the wrong direction at the end of the day.

5.2 Human Rights Program

Neither OHCHR nor UNMIS/HR reported about *expected outcomes* of their program¹⁹.

¹⁹ OHCHR's 2010-2011 Strategic Management Plan has established a system with 'expected accomplishments' for each country program, and a set of indicators meant to measure to what extent they have been reached. Such instruments did not exist in the 2007 and 2008 programs, for which Norwegian support was earmarked.

Based on the OHCHR Annual Reports (2007, 2008 and 2009), what are termed 'Results' may be interpreted to be an approximation of Outcome:

- *Successfully advocated the release or transfer of persons illegally detained (2007, 2008, 2009).* This element, reported for all three years, is an important Outcome though no numbers have been provided.
- *Regular and accurate reporting on the human rights situation, thus raising the awareness of human rights cases both in the international community and "among Government counterparts and other stakeholders" (the latter quoted from the 2009 Annual Report).*

The extensive monitoring and reporting on human rights violations have been an important prerequisite for international human rights advocacy on Sudan, not least regarding Darfur (which was covered by UNMIS/HR until and including 2007, later transferred to UNAMID). The relevance of this for the domestic audience (apart from the diplomatic community) was limited by the extent to which reports have been made public, where the practice has become increasingly restrictive over the last year. It may be assumed that this monitoring and reporting, along with the important work with law enforcement agents, has had a certain preventive effect on human rights violations committed by the authorities. The intention of new UNMIS/HR leadership from late 2009 has been to achieve more impact through discrete engagement with GoS, at the cost of public reporting²⁰.

Raising the awareness of civil society groups based on training activities: The considerable work carried out with CSOs prior to the expulsion and increasing repression of leading HR activists after March 2009, does not seem to have come back on track with the many new human rights defenders who emerged as a result of UN CSO engagement during the election process. Our interviews with representatives of these indicate that the relevance of the programme for civil society over the last year has been quite limited – and that in fact few of these organizations seem to have any knowledge of the existence and work of UNMIS/HR.

Strengthening the work of the Southern Sudan Human Rights Commission: The importance of supporting the HR Commission and providing legal aid activities in Southern Sudan should not be underestimated, but the same efforts failed in the North. It is noteworthy that several of the most important activities undertaken by UNMIS/HR are not reported in the OHCHR Annual Reports. This includes advocacy with the country's two Parliaments related to crucial law reforms and awareness-raising with law enforcement officials.

Legal reform represented an important element for both CPA and OHCHR Human Rights Programming, including the Elections Act, the Press Act and the National Security Bill. UNMIS/HR and UNMIS/Rule of Law provided technical support and input to the drafting of these laws. Both offices were responsible for ensuring that these new laws did not violate Human Rights and were aligned with the Interim Constitution. However, given the urgency

²⁰ According to a comment from OHCHR HQ to a draft of this Report, this shift in public advocacy strategy was *not* officially endorsed by OHCHR HQ, but there may have been a hesitation on the part of the SRSG (Head of UNMIS) to engage with the Government on HR in a negative manner.

and the inter-locking nature of the CPA, but most of all lack of political will, the legal reform process led to the adoption of laws which were in violation of general Human Rights values, the Constitution as well as international human rights principles including treaties ratified by Sudan. Such concerns were repeatedly voiced by both the HR and Rule of Law units of UNMIS, but evidently with little effect.

All in all, the outcome of this program, in spite of important achievements, fell short of expected outcomes when plans were drawn up.

6 Findings and conclusions

It is important to realize that the 2010 elections never became real contests about power. The dominant parties in the North and on national level, and in the South, would probably never have accepted any challenge to their power position. In the North, the security grip was obvious, and adapted to whatever it would take to assure a confirmation of the dominant party in power. Explicit use of power, intimidation or rigging was therefore not necessary to the same extent as in the South. In the South, the dominant party is still seen by the people at large as an independence movement and the main instrument to realize the old and close to unanimous dream of independence from the North. But the security apparatus is not as well entrenched as in the North, and central command is probably much more limited. Recourse to intimidation and rigging was therefore more rampant in the South, although it may have been even less important in order for the dominant party to win the elections.

The question must therefore be asked: did these elections rather contribute to provide two authoritarian structures with a democratic legitimacy, more than to the democratization of Sudan as such?²¹ If that is the case, the UN support to the elections, i.a. based on Norwegian funding, also shared a significant responsibility for it. The answer to that question will also depend on what happens after the elections, to what extent democratic forces in opposition parties and political groupings (including independent candidates in the South), civil society and the media, are allowed to maintain and if possible expand their space of operation. The post-election activities foreseen by UNDP become very important in this context. Living up to UNDP's good intentions on durable work with institutions and processes will be crucial for any sustainable democratic impact to take hold.

The answer to the question raised above will depend completely on the outcome of the independence process for the South and whether a split into two separate nation states may take place without return to violence and war. If this process succeeds, with the maintenance of the level of democracy demonstrated during these elections and ultimately the introduction of periodic elections with real power alteration at stake, this will have been an almost unparalleled success story on the African continent. As such, it is perhaps too much to hope for.

Clear statements from various UN actors noted that the donors to the election basket fund, i.e. the diplomatic community in Khartoum including the Norwegian Embassy, were more concerned with ticking off a necessary step in the CPA schedule than with optimizing the democratic character of elections. UNMIS top management may also have been more concerned with security than democracy and human rights, i.e. to "*avoid rocking the boat*"²². Still, it was important that elections were held without significant incidents of violence,

²¹ Anyway, this outcome may also be considered by some as good for CPA implementation, in the sense that it contributes to the maintenance of peace. In that case, we are up against a conflict between sustainable peace vs. sustainable democracy.

²² This perception was noted with frustration – and exactly with these words - by the various UN officials involved in the election management, in spite of the fact that concerns about democratic deficits repeatedly had been expressed by the donor countries on ministerial level, as referred to elsewhere in this Report.

something that may have been possible because the outcome was given as a confirmation of power both in the North and the South.

This dilemma is very well summarized by one of Sudan's most respected previous diplomats in the following way:

"The U.S and Western powers have applied tremendous pressures on the NCP to implement a democratic change in Sudan but, at the same time, they have accepted its landslide victory in the Presidential and legislative elections even though they branded the elections as not meeting international standards [...] [D]elivering an electoral victory to the NCP on a silver platter is seen as a relatively small price to pay for the bigger prize, which is the independence of Southern Sudan [...] objectively speaking, the international community, the US included, were ready to sacrifice their universally acknowledged and widely publicized democratization and human rights conditionalities to support the NCP's electoral victory"²³.

A leading British diplomat puts a considerable responsibility on Norway in this regard, particularly in order to avoid a full split of the Sudanese nation which many see as a close-to-catastrophic outcome:

"The prospects for such an outcome [an acceptable solution short of full independence for the South] look dim, though Salva Kiir's 31 July speech, in which he appeared to rule out a unilateral declaration of independence by the south, may offer a glimmer of hope. The US and Norway, with their excellent relations with the SPLM, may be best placed to explore the possibilities"²⁴.

Regarding the human rights component, there is no doubt that the National Government (GoS) put very strict limits on its *modus operandi*, leading to "the suffocation of the space for engagement" as a leading UN staffer put it, particularly after the ICC indictment and even more after the arrest warrant was issued. Still, our first critical finding is that UNMIS/HR had no systematic and exclusive dialogue with the diplomatic community until right before the 2010 elections (with the establishment of the International Partners' Working Group on Human Rights), and also seems to have had quite limited interaction with civil society and the political opposition during the election process. By accepting for so long the controlling power of the ACHR as a gatekeeper to all dealings with government institutions, the unit may have ended up with a more limited space to pursue its objectives than perhaps was necessary. Opportunities to build new alliances when a new democratic opening occurred during the election process may also have been missed. UNMIS/HR has however all reason to blame the diplomatic community, including the Norwegian Embassy, for offering very little support to their highly vulnerable position.

UNMIS/HR had apparently no clear strategy for how to work across the UN agencies, apart from an important effort to incorporate Human Rights Approach into the work of other UN

²³ Nureldin Satti, former Sudanese Ambassador, later top UN diplomat i.a. SRSG to Burundi: "Two views on the crisis in Sudan", *Working Group Series Paper no. 1*, Woodrow Wilson Center, August 2010, pp. 16-22.

²⁴ Alan Goulty, former UK Ambassador to Sudan and Head of the British team working on what became the CPA, in *Working Group Series Paper no. 1*, "Two views on the crisis in Sudan", op. cit., p. 5.

agencies. But in terms of creating synergies with other UN programs such as the Governance and Rule-of-Law (RoL) programs at UNDP in support of broader human rights challenges, we have found important weaknesses. Certain coordination has existed with the RoL unit at UNMIS, but this unit had itself an extremely limited space of operation. Like UNMIS/HR, it had to pass through ACHR for any interaction with state institutions, including the judiciary. Strategic coordination and outreach to UNDP and UNMIS/EAD during the elections seems to have been left to chance, and both UN and other election actors made only few references to election-related work by UNMIS/HR.

The relatively high staff turnover of UNMIS/HR, with the majority of officials working in the field with monitoring activities, added to this problem.

Communication and messaging by UNMIS/HR was often weak. The negative media campaign by the government in reaction to the ICC indictment against President Omar al Bashir often contained inaccurate accusations against the UN human rights system. These were not countered by UNMIS. Poor messaging may also have contributed to the limited results with regard to law reform, although the main problem was lack of political will.

UNMIS/HR has undoubtedly accumulated a great wealth of documentation of human rights violations in Sudan during its existence. When shared with GoS authorities, it may be hoped it has had a certain preventive effect on subsequent action. The shift, occurring in late 2009, from a relatively open public release policy to mostly abstaining from public reporting, being justified or not, has of course made the unit much more invisible on the public arena. This shift makes it even more important for UNMIS/HR to show that discrete engagement produces positive results as an alternative to naming and shaming. There is internal dissatisfaction in the Unit, however, when much of the knowledge/analysis generated in a number of areas (law reform, the judiciary, etc.) remains locked up in the drawers of the unit. Staff had e.g. invested upwards of four months on the work regarding the Security Bill. When the bill had been passed, to the disappointment of many, the UNMIS/HR report failed to be disseminated. A recent report on serious HR violations during the elections has remained internal, and has not even been shared with the Embassies.

The civil society program, while apparently very active until the ICC backlash, has failed to come back on track during the election process. Important opportunities to engage with CSOs involved in civic and voter education and domestic observation do not seem to have been exploited by UNMIS/HR, and the challenge remains to offer these new human rights defenders effective protection if another backlash in the form of repression occurs.

From the side of the Norwegian Embassy in Khartoum, there seems to have been very little pro-activity and interaction vis-à-vis the UNMIS/HR. Most conspicuous of all, the Unit (at least its present Head) has never been made aware – evidently neither by his own HQ nor by the Norwegian Embassy – of the dominant Norwegian funding of the OHCHR support to the program. Norway did not take part in the Human Rights Forum (mixed forum between the UN, diplomatic missions and government) that existed prior to the establishment of the International Partners' Working Group (only embassies and UNMIS/HR). Actually, given the high Norwegian priority on human rights and the dominant Norwegian funding of the program through an earmarked contribution to OHCHR, it comes as a surprise that the Embassy has paid so little attention to it, and apparently to the human rights and civil society dimensions of democratic development in

Sudan in general. Unfortunately, other embassies with a strong human rights mandate from their capitals seem to have been as passive in this regard as the Norwegian. They all seem to have limited their HR work to monitor the situation and report back to their capitals. There is reason to assume that both parties, the diplomatic missions (including Norway) and UNMIS/HR, would have benefited significantly from more mutual interaction and dialogue in their respective dealings with Sudanese authorities.

In the absence of an active donor engagement at country level, UN programs have tended to sway off-course and stall when confronted with a hostile or passive government partner. By contrast to the UNDP Basket Fund where the donors had monthly meetings and remained engaged with the implementing agency, UNMIS/HR did not receive the same level of attention nor interest. Difference in funding levels is no good excuse for this²⁵. One reason may have been that the election program, in spite of UNDP's insistence on the "cycle approach", is a one-off event which is time-bound as opposed to the more open-ended and broader nature of the Human Rights Program. It could also have been that the elections represented a more concrete and measurable milestone in the CPA implementation and consequently received a greater interest from the donors, and that they after all have been seen as a less sensitive issue than human rights. But human rights concerns were also prominent in the CPA.

It is not clear whether Norway, along with other donors, really could have enlarged the space for the policy dialogue with the purpose of improving the democratic character of the 2010 elections in Sudan. Notwithstanding the quite fatalistic view that a more active pro-democracy lobbying would have fallen on deaf ears and therefore was a waste of time: such a comprehensive election support program as the one in Sudan covering all dimensions of democracy as understood in this evaluation (see matrix in Annex 1), along with other programs and projects in human rights, rule-of-law, women's participation, preparation of legal framework (Constitution and election law), did at least provide Norway and other donors with a very strong *potential* for democratic synergy and for an active pro-democracy policy dialogue.

There is reason to believe that Norway would have some comparative advantages to take a particularly active role in policy dialogue aiming at an enhanced democratic character of the 2010 Sudan elections. The Troika and even the AEC would have been obvious places for Norway to bring up its concerns. Exceptional good relations with the GoSS and SPLM, i.a. through the General Consulate in Juba as well as the NPA and other NGOs, would give Norway extra leverage in this regard.

In spite of these critical questions, there was never an alternative for the UN, and for Norway as a supporter of the UN role in the 2010 elections, to abstain from supporting the international donor program for elections; the basket fund. Support to the UN HR program, with all limitations following from its integration with UNMIS, was also in itself positive: after all, this made it possible for the international community to keep some critical eyes on

²⁵ Actually, Norway *committed* not much less than half the amount to the HR program as compared to the election program of the UN in the country (34 million NOK vs. 15 million NOK), although – as we have seen – the last 5 million NOK to OHCHR was reallocated to another country on the insistence of OHCHR.

the human rights situation in Sudan during this decisive phase. Many actors in the donor community would claim that the limits of democratic will were actually tested. But we maintain that the test could and should have been brought further, if democracy and human rights in conjunction had been seen as the overall objectives, by taking more advantage of all possible synergy potentials. The international community did make an important contribution to support the democratic process in Sudan without compromising the two dominant forces' commitment to the peace agreement. But the balance between requirements for peace maintenance – as perceived by the two dominant forces – on one side, and the active promotion and protection of democracy and human rights on the other could arguably have been tipped more in the direction of the latter. The holding of these elections was no small achievement in itself, but it is a pity there was not more strategizing about possible synergy possibilities to push democracy and human rights concerns further, including by Norway as an important partner with the UN and as a significant player in the Sudan peace process. That should be seen as an important lesson for other similar processes in the future.

Based on the Sudan case, this evaluation seems to reveal that there is insufficient communication and coordination of Norwegian policies regarding UN peace missions, between the country embassy and the permanent Norwegian UN missions (to New York and Geneva). DPKO is normally the leading UN actor in such missions, giving security and military concerns the upper hand compared to concerns such as democratic elections (mandate of DPA and UNDP) and human rights (mandate of OHCHR and in many cases also UNDP). The turf fights and struggle for political priorities of the peace missions going on in the UN system, has probably not received sufficient attention from Norway, which thus may have lost opportunities to lobby more effectively for typical Norwegian priorities like democracy and human rights.

A related matter is the opportunity for Norway to be an active player in the formulation and follow-up of UN-run projects, where policy-making is often done outside of the sphere of Norway's influence. Participation in Board Meetings of UN agencies is not the most relevant area for project policy dialogue. Again, a closer consultation and coordination between country embassies and permanent UN delegations, and a direct follow-up with the most relevant UN actors, might give Norway increased leverage in this regard.

It is interesting to note that all Norwegian embassies in countries where there is an important UN mission are now explicitly instructed also to act as "multilateral embassies". This quite recent political signal may still not have taken hold in practice.

In terms of conclusion, it is obvious that the historical and political context in Sudan has set very clear limits for the democratic nature of both election and human rights support, not least when channelled through the UN which anyway was the only alternative. Any international donor support to this process was obliged to engage in a certain level of trade-offs between optimal democracy (free and fair elections, human rights, but also political pluralism, political participation, strengthened civil society, women empowerment, free media and pluralistic access to information, public oversight and transparency) on one side, and CPA implementation, maintaining (strengthening) peace and security, keeping the two main parties happy without "rocking the boat" on the other. But it seems that the latter concerns have been too dominant, and that both the UN system and the diplomatic and donor community (with Norway as an exceptionally important actor) have missed

opportunities to synergize their efforts in favour of their stated objectives of democracy and human rights promotion.

Final Conclusions

Assessing program results: The 2010 elections in Sudan were possible to organize only because the UN played such a heavy and decisive role. They fell clearly short of democratic criteria, but the Norwegian supported UNDP Basket Fund did make a difference (also in comparison to the other UN component, managed by UNMIS) in involving civil society and enhancing transparency. In spite of all general statements, both the UN Peace Mission and Norway as an important player in Sudan *in their practice on the ground* seem to have been more concerned with the holding of elections as such, than with their democratic character.

Regarding the human rights program, where Norway was the dominant donor for two years and committed itself to continue for a third year (possibly without the Embassy being fully aware of it), it had little visible impact on the human rights situation in the North, perhaps somewhat more in the South. The very fact that there has been a quite systematic monitoring of HR violations and that at least the Government has been made aware of them, along with a very active HR training of law enforcement officers, may however have had a positive impact in limiting HR abuses.

To what extent are these results explained by program factors or external factors?

There is no doubt that the political context of Sudan has been the main limiting factor for a positive democratic impact of these programs. The war history and the character of the Khartoum regime, the CPA, the Darfur conflict and the ICC indictment, on the top of very adverse socio-economic indicators, made it extremely difficult to reach much further with democratic development during the post-CPA period. The Basket Fund project must be characterized as a relative success in election technical terms, while the Human Rights program has been much less visible within its limited political space. The donors (including Norway) have been hesitant to line up with and support the weak UNMIS unit in charge of this component. No visible attempt was made, neither from the UN nor from Norway or other donors, to take advantage of synergy potentials between these two and other pro-democracy programs/projects. We must therefore conclude that program factors have contributed significantly to limit the positive impact of the support.

Table 6.1: Key Factors Explaining Project Results

	Positive	Constraints
Project internal	<ul style="list-style-type: none"> • Basket Fund along with UNMIS decisive for holding elections – positive in itself • Good dialogue donors/UN/NEC on the election process • UNDP post-election activities may be important to maintain democratic conquests • HR monitoring may have put certain pressure on GoS to limit HR violations • Presence of UNMIS/HR has provided political actors with significant HR knowledge 	<ul style="list-style-type: none"> • Donors + UN more concerned not to complicate peace process (CPA implementation) than to optimize democratic outcome (→acceptance of sub-standard elections) • Part. UNMIS more concerned with security than with democracy/HR (DPKO vs. DPA & OHCHR) • Weakness in coord of Norwegian policies vis-à-vis conflicting UN interests (to strengthen democratic/HR concerns) • UNMIS/HR had very limited dialogue with potential supporters (diplomatic community, political opposition, lately also with CSOs) →more vulnerable to GoS pressure • Norway & rest of diplomatic community not very proactive to offer such support • Potential synergy among UN projects and other N-supported projects not activated
External to project	<ul style="list-style-type: none"> • Elections held without significant violent incidents • CPA/double power (GoSS+GoS) created democratic opportunities • No alternative to the UN channel (elections plus HR) • Norway's strong role in Sudan peace process → comparative advantages → 	<ul style="list-style-type: none"> • Adverse socio-economic indicators; very weak infrastructure • Limited democratic space, part. In Khartoum (both leading parties rejecting real power contest) • Strength of security apparatus; general fear among population • Realistic fear of return to war • ICC indictment: positive for HR in global terms; short-term backlash for HR/democracy space in Sudan • → these advantages plus leverage with UN probably not taken full advantage of in order to optimize HR/democracy

Choice of UN as a channel: Norway could have organized neither its election support nor its human rights support to Sudan independently of the UN. The UN channel was the only option. But there seems to have been weaknesses in the coordination of Norwegian dialogue with the UN system, particularly when weighing conflicting roles and interests between field and HQ level and between the various UN actors. This may have reduced the enhancement of democracy and HR objectives versus security and military concerns. Furthermore, there are clear indications that Norway failed to make full use of the synergy potential between the various Norwegian channels at work in Sudan: UN (elections *and* human rights), bilateral, NGO and academic cooperation.

Summing up according to the DAC criteria:

Relevance: Both programs have been highly relevant in the post-CPA situation in Sudan. In fact, elections and HR protection/promotion may have been the two most important elements in CPA implementation. The two UN programs supported by Norway were arguably the two major efforts – although very different in size – by the international community in that respect.

Effectiveness: Effectiveness was quite high in technical terms when it comes to supporting the organization of the elections. Elections of a certain standard could simply not have been held

in Sudan in 2010 without massive UN support, where the Norwegian-supported Basket Fund was one of the two UN legs. The HR program has operated against very heavy odds, and may not be said to have been a very effective instrument for enhanced HR protection/promotion in Sudan (although perhaps more so in the South). It may be difficult to see how any HR support could have been more effective under the given circumstances, but a better partnership between UNMIS/HR and the diplomatic community (not least with Norway as a dominant donor) could have made a difference.

Impact: The holding of elections even if they were not up to international standards, on the top of the CPA, did lead to the expansion of democratic space in Sudan, particularly in the South where there was no previous experience with democracy. But even in the North, there has been a democratic impact of these programs and the elections. The fact that this war-ridden country was enabled to experience the probably most comprehensive election process ever should not be underestimated. The impact of the far more modest HR program has of course been much more limited. But the presence of the program may after all have had a certain preventive impact on HR violations in the country, although it is difficult to determine to what extent this is attributable to the program.

Sustainability: This is the critical question: will the democratic gains be sustainable? The priority given to security and military concerns at the cost of optimizing democracy and human rights may have limited the sustainability of such gains. The fact that the UNDP Basket Fund is continuing with post-election activities is at least a well-intentioned effort in the direction of sustainability. We have not been able to see a parallel effort by UNMIS/HR to take special measures for the protection of human rights defenders who became visible during the election process but may become very vulnerable in the aftermath of elections and run-up to Referendum. If there is a return to war, these gains will very rapidly be lost and things may become worse than ever. But war and peace in Sudan is definitely beyond the control of the Norwegian-supported programs evaluated here.

Attachment A: Persons Interviewed

Norwegian Government Officials

Mr. Geir O. Pedersen, Director General, Dept. for UN, Peace and Humanitarian Affairs, Ministry of Foreign Affairs (MFA)

Mr. Endre Stiansen, Senior Advisor, MFA, Oslo

Ms. Trine Mathiesen, Advisor, MFA

Mr. Svein Sevje, Ambassador to Sudan (until end of August, 2010)

Mr. Arve Ofstad, Deputy Head of Mission, Khartoum Embassy

Mr. Henrik Lunden, Secretary and liaison with Basket Fund Project, Khartoum Embassy

Ms. Helene Skaardal, Secretary and liaison with UNMIS/HR, Khartoum Embassy

Mr. Stein Erik Horjen, Deputy Consul General, Juba

UN Officials

Mr. Auke Lootsma, Deputy Country Director, UNDP/Khartoum

Mr. Joe Feeney, UNDP HO, Juba

Mr. Ray Kennedy, Chief Electoral Affairs Officer, UNMIS/EAD, Khartoum

Mr. Jorge Guzman, Election Project Manager, UNDP/Khartoum

Mr. Azhar Malik, Election project manager, UNDP/Juba

Ms. Thusita Pilapitiya, Governance Section, UNDP/Juba

Mr. Matthew Dominic, Head of UNMIS/EAD, Juba Sub-Office

Mr. Guillaume Chartres, Election Project Officer, UNDP/Khartoum

Ms. Ann Li, Election Project Officer, UNDP/Khartoum

Mr. Mohamed Abdel-Aziz Ibrahim, Chief, RoL, Judicial and Prisons Advisory Section, UNMIS, Khartoum

Ms. Benedict Sannoh, Head of UNMIS/HR, Khartoum

Ms. Roxana Garmendia, Head of UNMIS/HR Juba Office

Cardinal Uwisheka, UNIFEM, Juba

Ms. Nemata Majeks-Walker, UNIFEM, Juba

Mr. Steffano Pes, IOM, Khartoum

Sudanese Officials

Mr. Abdalla Balla el Hovdalle, Commissioner, NEC, Khartoum

Mr. Galal Mohamed Ahmed Altayef, Secretary General, NEC, Khartoum

Amb. Abdeen, Advisor, NEC, Khartoum

Mr. Antipas Nyok, SPLM Secretariat, Juba

Mr. Henry Wani Rondyang, SPLM Secretariat, Juba

Mr. Thomas Dut, Acting Head of South Sudan Human Rights Commission

Mr. Jersa Kide Barsaba, South Sudan High Elections Committee

NGO and academic personalities

Mr. Halle Jørn Hanssen, ex-SG, NPA

Mr. Jan Ledang, Country Director NPA, Juba

Mr. Tore Torstad, Country Director NCA, Juba (until June, 2010)

Ms. Trude Falch, Sudan responsible, NPA/Oslo (interviewed both in Oslo and Juba)

Ms. Marit Hernæs

Ms. Liv Tørres, consultant and political advisor

Mr. Audun Herning, Project Responsible, NPA/SPLM project, Juba

Mr. Øistein Rolandsen, Senior Research Fellow, PRIO (interviewed in Juba)

Ms. Robina Namusisi, IRI, Juba

Mr. Franklin Bonner, IRI, Juba

Mr. Said Sanadiki, Programme Director for Domestic Observation, Carter Center, Khartoum

Mr. Ajay, Carter Center, Khartoum

Mr. Yusef, IFES Representative, Khartoum

Dr. Hassan A. Abdel Ati

Dr. Muawia Hamid Shaddad

Representatives of the following NGOs met in Khartoum: Women Initiative Group, Youth Center for Development, Darfur Medical Society, Friends of Peace Society, Sudanese National Union of Disabled

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UNMIS (2010), *Minutes from Joint Technical Meetings; NEC, International Electoral Assistance, Donors.*

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Woodrow Wilson International Center for Scholars (2010), *“Two Views on the Crisis in Sudan”, with articles i.a. by Alan Goulty and Nureldin Satti (WDC, August 2010).*

SMEC (2010), *Monitoring of the Coverage of Sudan 2010 Elections (various Interim reports).*

The Carter Center (2010), *Public Statements on 2010 Sudan Elections.*

Attachment C: Crosscutting relations in the evaluated projects

DemDev dimensions	Elements of basket fund					
	Civic Educ	Media	Domestic obs'ion	NEC support	PPAC support	Other stake-holders
Access to justice						X
Civil society strength	X	X	X			
Human rights	X	X	X	X	X	X
Women empowerment	X			X	X	
Electoral processes	X	X	X	X	X	X
Media/access to info	X	X				
Public oversight		X	X	X	X	X

DemDev dimensions	HR Programme elements							
	HR Commis	Parl Comm	Law Enforc	CSO/int HR	Milit Pers	Treaty rat/re	Gender/ VAW	Monit cap.b
Access to justice						X	X	X
Civil society strength	X	X	X				X	X
Human rights	X	X	X	X	X	X	X	X
Women empowe't	X			X	X		X	X
Electoral processes	X	X	X	X	X	X		X
Media/access to info	X	X						X
Public oversight		X	X	X	X	X	X	X

DemDev dimensions	SPLM Project elements						
	Convention	Women	Youth	Local org	Programme	Camp/mob	Pol comp
Access to justice							
Civil society strength		X	X	X		X	
Human rights		X	X		X		
Women empowerment	X	X	X	X	X		X
Electoral processes	X	X	X	X	X	X	
Media/access to info		X			X	X	
Public oversight						X	X