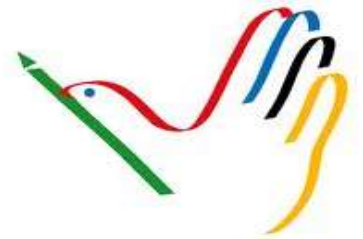


2011

Workshop
Report



[VISIONS FOR CONSTITUTIONS – MAKING IN SUDAN]

A three day workshop by Sudanese Civil Society, deliberating on the process of Constitution-Making in Sudan

Workshop Report
“Visions For Constitutions – Making In Sudan”
December 19th.-21st. 2011
Omdurman - Sudan

The SUDANESE INITIATIVE FOR CONSTITUTION-MAKING (SICM)

in collaboration with:

**The Regional Institute for Gender ,Human Rights & Peace Studies at Ahfad
University for Women**

Al-Ayam Centre for Cultural Studies

The Sudanese Forum for monitoring the Making of the Constitution in Sudan.

Introduction: (edit intro.)

In the run up for the forthcoming Sudanese constitution- making process & as part of the Sudanese Civil Society Organizations` effort to promote Sudanese people`s awareness with regard to constitution – making process mechanisms, constitution-making options, constitution contents & other constitution-related issues; this workshop was organized by the Sudanese Initiative for Constitution-Making (SICM) in collaboration with: the Regional Institute for Gender ,Human Rights & Peace Studies at Ahfad University for Women , Al-Ayam Centre for Cultural Studies & Development ,Engendering the Constitution Initiative ,Development Institute at the University of Khartoum & the Sudanese Forum for monitoring the Making of the Constitution in Sudan.

The events of the workshop took place at the Gender building of Ahfad University for Women at Omdurman during the period 19-21 Dec. 2011 under the theme : "Visions for the Constitution Making in Sudan".

In addition to the membership of the aforesaid civil society organizations the workshop drew its audience from a broad spectrum of Sudanese political parties, intelligentsia ,academia from both sides of the Sudanese political divide in addition to the media . the attendance of some foreign NGOs was also in evidence observing the workshop.

The deliberations of workshops crystally - clear embodied the Sudanese people longing for making a constitution that would put the Sudanese nation back on the track of democracy, unity, justice ,equality & peaceful co-existence after it has long been derailed by non-democratic rule . The sessions of the workshop were therefore punctuated by enthusiasm ,emotions & sometimes passion .

Day : One – Monday, Dec.19th. 2011

The first session of day one which was chaired by veteran journalist & editor –in-chief of Al-Ayam newspaper Mr. Mahgoub Mohammad Saleh kicked off at 9:55am. Mr.Saleh welcomed the participants & commented on the workshop`s theme & the critical time in which it was being held.

The Chairperson then invited Professor, Tayeb Zain Al-Abdeen to take the floor. Professor, Zain Al-Abdeen welcomed the participants & made short remarks highlighting his view that the Sudanese political scene has witnessed several positive phenomena, most important among which is the proliferation of civil society organizations & their active involvement in the constitution –making process.

Commenting on the past Sudanese constitutions, Prof. Zain Al-Abdeen



told the participants that those constitutions were made behind closed doors at the hands of committees that lacked both societal participation dimension & inclusiveness. He went on to say that civil society organizations are resolved this time to make the constitution-making process a different exercise taking on board all the people of Sudan par none . He further told the participants that

such a process would only be possible if civil society organizations embark vigorously on civic education with the purpose of mobilizing the Sudanese masses across Sudan as did Al-Ayam Group.

Prof. Zain Al-Abdeen concluded his remarks by urging the participants to reflect the deliberations of the workshop to their grassroots back home.

Having thanked Professor, Tayeb Zain Al-Abdeen for his remarks, the Chairperson invited Dr. Abdel Mutaal Girshab, Executive Manager of the Institute for the Development of Civil Society (IDCS), Chairperson of the Sudanese Initiative for constitution-making (SICM) to take the floor.



Dr. Girshab welcomed the participants, presented the workshop agenda & structure highlighting issues to be touched on during the three days of the workshop.

He made special reference to the presence of foreign experts , calling upon the participants to make use of lessons they will learn from the study cases to be analyzed by these experts & apply them to the Sudanese context . Dr. Girshab concluded by urging the participants to actively involve in the deliberations of the workshop.

With the conclusion of the opening part, session: one started by presentations focusing on: "the Goals & Benefits of Constitution – making Process "The first presentation in this respect was made by Ms. Maha Zain Al-Abdeen of SICM.

Ms. Zain Al-Abdeen started her presentation by commending the intensive presence of audience describing it as a sign of the importance attached by Sudanese people, at large, to the constitution –making process . Making reference to the special extra-ordinary conditions in South Kordofan & the Blue Nile ,she went to touch on various relevant issues most important among which were : the need to adopt a holistic approach to the constitution-making process ,the need to derive lessons from other countries` experience & making use of

them in the Sudanese context as well as the need to accord special attention to issues of gender, citizenship, nationality, organizational structure, form of government & commissions that can be set up to ensure the enforcement of the constitution.

Ms. Zain Al-Abdeen concluded by urging the participants to ensure making the constitution as a vehicle for consolidating national unity, building trust among various communities, providing a framework for governance that would enable people to co-exist in peace & prosperity, among other goals.

The floor was then given to Mr. Jason Gluck of the United States Institute of Peace (USIP) & International expert Ms. Kristina Murray who briefly presented case studies highlighting the constitutional reform & constitution-making processes in South Africa, Kenya & Iraq as examples for constitution-making in countries emerging from conflicts. The presentations were followed by questions mostly focused on the civic education efforts of civil society organizations in Kenya, the South African truth & reconciliation Commission & its role, the divisions of the post-Saddam Iraqi society & their impact on the constitution-making process among other issues.

At the end of these three presentations the session was adjourned for tea break. The workshop was then resumed by the second session which was entitled "Principles of constitution-making: International Experiences & the Sudanese context", was chaired by Dr. Nourl Din Satti, Manager of the Sudanese National Library. Dr. Satti welcomed the participants requesting them to steer away from academic argument & instead focus on goal & action-oriented deliberations. He then, gave the floor to Dr. Girshab who made presentation on the principles of constitution-making & application requirements. In his presentation Dr. Girshab touched on the four decisive principles of the constitution-making process including: inclusiveness, participation, transparency & consensus. He defined these principles, highlighting their significance & how they can be applied.



Dr. Girshab`s presentation paved the way for questions / answers & discussions involving both national & international experts which were followed by an open panel discussion on the same issue which mainly focused on the way these principles have been dealt with in the South African ,Kenyan & Iraqi contexts & what are the optimum way to deal with them in the Sudanese context .

The workshop adjourned at the end of this session for lunch at 1:30 pm to resume with the third session at 2:30 p.m . The third session which was entitled " constitution-making process Institutional Modalities " started by presentation on options delivered by Mr. Jason Gluck , who started his presentation by a review of the four decisive principles of the constitution-making process including : inclusiveness. Participation, transparency & consensus briefly recapping every one of them. He then introduced the notion of national ownership, stressing the need for the constitution-making process to remain purely Sudanese in spite of the presence of foreign experts. He went on to shed light on the three phases of the constitution-making process: including the road map, the negotiation & the drafting phases. Mr. Gluck concluded his presentation by highlighting the options available for designing a constitution telling the participants that choice of any option is made in the light of many factors taking into due consideration the context of the country in question.

The participants were then divided into groups to answer questions



designed to stimulate deliberation on the constitution-designing options in the Sudanese context.

The groups, then debriefed the workshop on their answers to the questions. Commenting

on the group work outcome, Mr. Gluck summarized the findings that the groups arrived at emphasizing the need for involving all the people in drawing the road map, the need for reaching consensus on principles that are binding to all & the need for observing transparency.



With that debriefing, deliberations of day one came to an end.

Day : Two – Tuesday, Dec. 20th. 2011

The first session in day two was chaired by Ms. Samia Nahar who welcomed the participants & invited Mr. Jason Gluck of the USIP to recap the events of day: one. Mr. Gluck reviewed the activities of day: one, commending the work done by the groups. He stressed the need for the constitution-making process to be conducted in a conducive environment. In the Sudanese context, this means the need for peace & stability, he concluded.

Ms. Nahar, the chairperson then introduces Dr. Abdul Rahim Belal who is a national expert & consultant on civil society issues to give

presentation on "the culture of constitutionalism & the process as a means for deliberating the substantive issues".

Dr. Belal started his presentation by raising the question: "When will elections be free & fair?" He went on to stress the fundamental principles of constitution-making process including inclusiveness, participation, transparency, consensus & national ownership.

Dr. Belal then told his audience that several constitutional civic education initiatives emerged. It was evident that groups conducting these initiatives had different orientations, while some of them emphasize the constitution-making process, others lay stress on constitutional contents. In addition, there is evident polarization with respect to the nature of the state & its frames of reference, Dr. Belal went to say. In the face of this, there is a need for indicators to verify the attainment of the five principles. Some of these indicators, Dr. Belal said exist in the political environment, while others are embodied in the professional & organizational capacities needed for applying these indicators.

Dr. Belal concluded by shedding more light on these principles, their significance & the ways & means for applying them, making special reference to their humane contents & the need to attain them for the benefit of people in terms of health, food & security.

Ms. Nahar thanked Dr. Belal & invited Ms. Zainab Abbas to deliver presentation on "Gender –equitable Constitution". Ms. Abbas' presentation touched on several gender –sensitive constitution-related issues including but not exclusive to : the need to start by putting an end to women marginalization in Sudanese paternal mentality-dominated political parties, the need to consider cultural framework when making a constitution, the need for the forthcoming constitution to put an end the reproduction of backwardness embodied in the Public Order Act & other women freedom –restricting legislations, the need for the forthcoming constitution to provide for guarantees for women work in order to put an end to the anti-women hostility marring the labor market.

Ms. Abbas concluded by urging the forthcoming constitution makers to include in it provisions ensuring the commitment of the state to mainstream gender issues in labor legislations.

With the end of Ms. Abbas` presentation, the chair was handed over to Professor, Balgees Badri of Ahfad University for Women. The chair invited Dr Sami Abdel Halim to take the floor to make presentation on: "Modalities of state structures". Dr. Halim started his presentation by introducing the notion of separation of powers, stressing its significance & the checks & balance used to enforce it. He went on to trace the historical development of rule in Sudan as of the British – Egyptian Condominium up to the June 1989 coup that propelled the incumbent government to power. Dr. Sami then introduced the three systems of government including: the Presidential, parliamentary & Mixed republic. He further shed light on the pros & cons of every one of them. He concluded by introducing the Federal system, examining its enforcement during various episodes of the Sudanese history.

Prof. Badri opened the floor for comments & inquiries. One of the most important interventions was made by former River Nile Governor Mr. Badawi Al-Khair who called for prudent reading of the Sudanese reality before opting for any form of government, as Sudan hasn't so far crystallized as a nation. Tribalism & regionalism are still a live & kicking, as he put it. This state of affair, he went on to say, entails the presence of a strong central government which would maintain the unity of Sudan, Mr. Khair concluded.

Other interventions emphasized the need to organize more workshops to decide on the form of the forthcoming state.

With these interventions, the workshop adjourned for lunch to resume at 2:40 p.m. with an afternoon session chaired by Ms. Maha Zain Al-Abdeen of SCIM. Ms. Abdeen gave the floor to former Constitutional Court judge, Mr. Nabeel Adeeb to make presentation on: "the bill of rights & fundamental freedoms".

Mr. Adeeb started by introducing the concept of the Bill of Rights, quoting several constitutional scholars & political philosophers, then he

made a historical review of the development of the bill of rights stressing its evolution in England, the emergence of the Magna Charta & the contribution of Napoleon among other landmarks developments in this respect . He went on to speak about mainstreaming bills of rights in constitutions citing the example of the USA constitution the ten amendments of which embody the bill of rights. Mr. Adeeb concluded his presentation by calling for the need to keep the bill of rights which is attached to the interim constitution. In order to substantiate his call, Mr. Adeeb reviewed the contents of that bill urging law makers to identify its parts that are in need of completion.

The chairperson then opened the floor for interventions. The participants made several comments all revolving around the need to make use of the massive experience accumulated by the international community in the field of constitution making & the urgent need for civil society organizations , specially Bar Associations to open more forums to promote citizens` awareness about their constitutional rights.

The floor was then given again to Dr. Abdul Rahim Belal to make presentation on: "the social State". Dr. Belal started his presentation by stressing the fact that both poverty & social justice are basic issues. The rest of his presentation focused on the political, social & economic roles to be played by a state if it is truly keen to be labeled social.

Dr. Belal`s presentation was followed by another presentation by Mr. Nabeel Adeeb on: "Citizenship & nationality". Mr. Adeeb started his presentation by citing definitions of nationality , citizenship & state , stressing the fact that in the past there were no citizens , there were rather subjects which means that from sovereignty point of view ,people were subordinates to the king by virtue of the divine right he had to rule them .The change of the relation between citizens & the ruler by virtue of the French Revolution led to the evolution of the concept of the national state which is multi-ethnic , multi-religious & multi-national . Mr. Adeeb concluded his presentation by telling the participants that diversity does not preclude unity. Unity is rather, prevented by the majority`s quest to melt minorities & that the

presence of diverse ethnicities & cultures entails the presence of equality in order to attain peaceful co-existence.

The participants were at the end of Mr. Adeb's presentation divided into five groups every one of which was tasked with debating a particular issue among: citizenship & nationality – structure of the state & creation of conducive environment for the constitution-making process. With the group work, day: two came to an end at 5:10 p.m.

Day : Three – Wednesday, Dec. 21st, 2011

The first Session which was chaired by Dr. Atta Bat-hani of the University of Khartoum started by Dr. Girshab inviting the group representatives for debriefing . The constitution & gender group made



several recommendations most important among which is the need for the constitution to provide for women right to work, own & equal pay in addition to protection in areas of conflict. The group on structure of the state opted, among other recommendations, for the Parliamentary system of government with special emphasis on the separation of powers. While the group on Human rights strongly recommended drafting a human rights-sensitive constitution, repeal of all freedom-restricting legislations in addition to setting up a human rights commission as provided for by the CPA. This commission & the constitutional Court must be accredited by the Parliament rather than the government . The group also recommended the constitution to explicitly provide for the repeal of immunities such as those provided for

by the National Security Act. This group in addition called for use to be made of both the recent Tunisian & Egyptian experience.

The group on Nationality & Citizenship made several recommendations most important among which are the need to include human rights – related international conventions in the forthcoming constitution- adopting multiple identity in order not to anger minorities- allowing women married to foreigners to pass their nationality to their husbands among other recommendations.



With the end of this debriefing Dr. Bat-hani gave the floor to Dr. Makki Amin Medani to present the draft of the ethical declaration. In a PowerPoint presentation the document was reviewed by the participants item by item. After several additions & omissions, the participant arrived at what they deem as an optimum document including the best principles on which the forthcoming constitution must be based.

Then the road map for the constitution-making process was presented & like the previous document was subjected to meticulous critical item



by item review by the participants. Debate on this road map revolves mainly around key points including: the need to agree on a broad constituent body representing all political parties, civil society organizations etc... from which stem technical committees to be

tasked with technical matters – setting up a constitutional council mandated to set up a commission under its supervision – the real kick off should be the agreement on this road map. The participants agreed to continue making additions & omissions to the extent that makes this document capable of guiding constitution-making efforts.

At the end of the workshop Dr.Girshab delivered the concluding remarks which reiterated the importance of continuing to introduce amendments to the constitutional principles & the road map as well as the need to carry on civic education across Sudan. Thanking the organizers & the participant for taking part in the workshop & enriching its deliberations, he called upon the participants to convey the outcomes of the workshop to grass roots back home.

With this call the workshop came to an end with the participants whole-heartedly convinced that any constitution which is not based on these principles would trigger a Sudanese version of the Arab spring.