

## Southern Sudan Before the 'Referendum for Freedom' (ARI)

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**Theme:** Southern Sudan's historic referendum on whether to stay in or secede from a united Sudan is rapidly approaching. The political tide is flowing toward an independent country but the politics of Sudan's North-South political transition remain beset with challenges.

**Summary:** Southern Sudan is on the threshold of becoming an independent state, according to widespread popular Southern sentiment and the terms of Sudan's North-South peace agreement that allow the right to self-determination through a referendum. The sense of historic inevitability about this outcome, which would be achieved through the 'referendum for freedom', is set against an intensely political atmosphere. There are myriad risks of this vision being derailed, including problems derived from the second referendum on the future status of the special administrative area of Abyei. The outstanding challenge today lies in managing the probable break-up of Sudan in such a way as to best ensure peace. Providing war does no return, any such achievement, in itself considerable, will be followed by the formidable challenges of sustaining peace.

**Analysis:** 'I would vote for secession rather than unity': in so uttering his 'personal belief' at a public rally in Southern Sudan's capital Juba in early October 2010, Salva Kiir Mayardit, the President of the Government of Southern Sudan (GOSS) and national First Vice President of Sudan, very publicly articulated the views of many Southern Sudanese as their 'referendum for freedom' fast approaches. In response, the President of Sudan, Omar el-Bashir, spoke of a new war, accusing the Southern leader of reneging on the terms of the January 2005 Comprehensive Peace Agreement (CPA).

This was supposed to make Southern Sudan's position in a united Sudan 'attractive'. It has not. Now many Southerners literally count down the days to the vote, scheduled for 9 January 2011. Some openly campaign for secession, with recent demonstrations in different Southern towns and Khartoum in favour of establishing an independent Southern Sudan. How did it come to this? What are the prospects for Southern Sudan ahead of the referendum, and beyond? This paper examines the context and current state of pre-referendum Southern Sudan. In doing so, however, it is impossible not to factor in wider Sudanese dynamics.

### *Background: the Comprehensive Peace Agreement*

The CPA was signed by the Government of Sudan (or the ruling National Congress Party, NCP) and the Sudan People's Liberation Movement (SPLM), and ended over two decades of Sudan's North-South and South-South civil wars. It codifies multiple

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transitions: war to peace, relief to development, centralised authoritarian rule to democracy and a more equitable sharing of resources. Although widely trumpeted as the vehicle for Sudan's 'democratic transformation', the CPA essentially moved a historically-rooted conflict from the military to the political sphere. Politics, in effect, became the continuation of war through other means and today the overriding political goal is independence.

The CPA, then, is about far more than just the Southern referendum. It also contains provision for addressing the future status of Sudan's strategic and contested North-South border regions: a referendum on whether the special administrative area of Abyei will remain in North or South Sudan and 'popular consultations' by elected legislatures for Southern Kordofan and Blue Nile. In many ways, however, the South's right to exercise self-determination through a vote was –and is now more widely seen as– its defining feature. The issue of self-determination for Southern Sudan can be traced back to British colonial policy and the process through which Sudan achieved independence in 1956, during which the South was manoeuvred out of fairly being able to decide its political future. Fighting broke out in Southern Sudan even before Sudan's independence and grew into a secessionist conflict ended by a peace deal in 1972. The rebellion that broke out in 1983 was led by an SPLA fighting for a New Sudan –and not an independent South–. The principle of Southern Sudan's right to self-determination was agreed in a 1994 declaration, reiterated in the 2002 Machakos Protocol between the Sudan government and the SPLM, and enshrined in the CPA. The forthcoming Southern vote is regarded by many Southern Sudanese as the means to correct historic injustice; it is vital to appreciate this history and what Southerners want.

By the time the CPA was signed in Nairobi, international attention had already switched to the escalating conflict in Sudan's western region of Darfur. This meant that efforts to implement the CPA were set back from the start. It took too long for international attention to switch from Darfur back to Sudan's North-South politics, where it is focused now (Darfur, once again, largely off the international radar). And for very good reasons, given the high stakes involved and the probability of a vote for independence.

#### *The State of the CPA*

In July 2005, at his inauguration in Khartoum as First Vice President of Sudan, the then Southern leader John Garang described the SPLM as 'a national Movement for all of Sudan, a movement for the New Sudan' and appealed 'to all Sudanese to join the SPLM and safeguard the unity of our country by making unity attractive'. On his return to the Southern town of Rumbek he proclaimed a 'new start' for Sudan at a large public rally. Then, everyone was looking forward to what peace might achieve. Announcing that the SPLM would move to its new capital of Juba, the optimism he generated was palpable amidst celebrations of peace. Not long afterwards, however, he died in a freak helicopter crash and so did any prospect, if there had ever been one, that the vision of a reformed, united New Sudan he championed might be a viable political project.

The balance sheet on CPA progress since 2005 is unsurprisingly mixed. Two governments –a national government of unity and semi-autonomous Southern government– were established and have functioned since 2005. Wealth-sharing between North and South Sudan has been more or less successful, despite disputes about oil money transfers in a highly opaque industry. The census was completed, two years late. The April 2010 elections were also late, but passed without serious violence and, most importantly, the results were agreed. These confirmed the prevailing balance of power in

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Northern Sudan under Bashir's NCP and Southern Sudan under Kiir's SPLM. In effectively formalising a 'one Sudan, two systems' polity, the elections paved the way for the vote that matters most for the South.

The national elections were interesting partly for what did not happen: the SPLM did not challenge Bashir in the national presidential elections, after its candidate Yasser Arman withdrew at the last minute (still gaining about 20% of the vote) leaving Bashir to win the crown. Now faded posters in Juba and other Southern towns bearing the slogan 'vote Yasser Arman for the democratic transformation' symbolise the SPLM's abandonment of the New Sudan vision, the project of Sudan-wide political reform, and its withdrawal to focus on the New South Sudan vision, the project of Southern independence. Large colour billboards featuring the martyr John Garang now proclaim the 'final walk to freedom'; others 'freedom through referendum'.

Sudan's much talked about 'peace dividend' has proved to be an elusive phenomenon for ordinary Sudanese, particularly in the South. A transformation of an historically entrenched set of power imbalances would have been required to actually 'make unity attractive' to Southerners. Even had there been real political will, the challenges were truly daunting. It is not surprising, therefore, that unity has not been made attractive to Southerners and instead the question 'how could unity have been made attractive' is more frequently asked, post-mortem style. On top of a history of oppression and armed struggle, a decisive factor has been the incongruence between the NCP's apparent new-found faith in peace, as expressed in the CPA, and the violence it has sponsored in Darfur. Unleashing a brutal counter-insurgency campaign based on armed proxies, a tactic all too familiar in Southern Sudan where it was developed, was further proof for Southerners, if any more were needed, of the nature of the Khartoum regime, whose interest in peace with the South seemed partly motivated by the expedient reason of needing to respond to armed rebellion in the west, Darfur.

#### *Preparing for Sudan's Referendums*

The late adoption of the Southern Sudan Referendum Act in December 2009 put the referendum process behind schedule. The Act stipulates that a simple majority (50% plus 1 of the votes) will decide its outcome, but requires 60% of registered voters to vote for secession (failing which there would be a repeat vote within 60 days of the final results). This quorum requirement has prompted concern about possible rigging of the turnout. Such legal technicalities, however, are certain to be trumped by political demands and Southern expectations of an inevitable 'yes' vote.

Political differences and the basic logistics of a hugely demanding exercise mean that preparations for the Southern referendum continue to be far behind schedule. The body charged with overseeing the process, the Southern Sudan Referendum Commission, was finally established, after a long politically-caused delay, in June 2010. Voter eligibility and registration remain ongoing concerns; the SSRC postponed this until it finally began in mid-November 2010. Much attention is being directed towards the need to ensure a credible, legitimate referendum process and outcome through strong oversight mechanisms and international monitoring. The UN has been scaling up its practical support, establishing referendum centres in all states. Overall, the practicalities for holding the referendum remain to be put into place, but are being rolled out amidst political controversy.

There is also no agreement between the NCP and the SPLM on post-referendum arrangements. In June 2010 the two parties announced that they would continue negotiations on four 'clusters': (1) citizenship; (2) security; (3) financial, economic and natural resources; and (4) international treaties and legal issues. However, the continuing lack of agreement is cause for concern given the importance of the issues involved. These include future resource-sharing arrangements –not just oil revenues, but also water, a concern of Egypt and neighbouring countries–. Citizenship is another contentious issue, involving as it does the future status of the high numbers of Southerners in northern Sudan. Final North-South border demarcation remains to be fully agreed and has been an ongoing point of contention in relation to the referendum: the NCP argues the referendum should not take place until this is agreed, and the SPLM argues it must take place on schedule.

Many of these issues are condensed into Abyei, a critical strategic border region whose own referendum is even further behind schedule. The CPA's Abyei protocol mandated a six-year interim period of joint SPLM-NCP administration of the region followed by a referendum on whether it should remain within the North or join the South. The NCP and SPLM differed on Abyei's border demarcation. The Abyei Boundaries Commission report, which was supposed to produce a final, binding settlement, was rejected by the NCP. In July 2009, a ruling by the Permanent Court of Arbitration in The Hague reduced Abyei's borders, leaving control of many key oilfields with Khartoum.

For good reasons, some now talk of the region of as a possible West Bank of Sudan in the making, with all the potential to destabilise any future relations between North and South Sudan. In May 2008, illustrating Abyei's flashpoint status, fighting erupted there and some 60,000 people were displaced southwards by the northern Sudan army. While the Abyei Area Referendum Act was agreed at the end of 2009, the Abyei Referendum Commission has not yet been established.

#### *Recent Developments*

The process and outcome of the Southern and Abyei referendum connect multiple interlinked local, national, regional and international factors. Successful CPA implementation would mean, in essence, the achievement of a formal post-referendum peace in Sudan through an agreed outcome. This would not just spell enormous dividends within Sudan but also make a major contribution to preserving peace in the region. Any serious CPA derailment would mean a return to war, which would be far more destructive than before. The Northern army is committed to Darfur and internally divided but both it and the SPLA have enhanced their military capacity since 2005 and the SPLA has vowed to take any new war to the North. Any new armed conflict under these changed circumstances would not only be far more destructive but also contain the inherent probability of regional entanglement.

International concern, led by the US, has increased as the referendum looms in January. The September Sudan meeting on the fringes of the UN in New York was notable, followed not long afterwards by a visit by the UN Security Council to Sudan.

In Northern Sudan, NCP leaders have voiced their opposition to the idea of Southern independence. There has been NCP sabre-rattling against the SPLM. The North is divided (as a recent fatwa against Bashir accusing him of being complicit in America's plan to split Sudan showed). Others have been waving olive branches. The result is mixed messages, President Bashir also proclaiming his support for Southern Sudan if it chooses

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secession, with uncertainty about possible hard-line reaction from Khartoum to the Southern referendum.

Within the South, the SPLM has sought to bring Southerners working for the NCP back into the fold, pardoning those who fought against the SPLA. The All-Southern Sudanese Political Parties Conference in Juba in October 2010 discussed peace and reconciliation, referendum preparations and looked forward to its outcomes. The question of a possible unilateral Southern declaration of independence –the ‘UDI option’– has been publicly rejected by Salva Kiir, amongst others. Should Southerners be denied their referendum, there is popular pressure on the Southern government to hold its own or declare independence anyway. This would create a host of political and legal challenges, and tempt spoilers fishing in troubled waters to exploit the situation militarily. For Southern Sudan, so much upon the legitimacy of following the terms of the CPA, an agreement recognised by Sudan’s different bilateral external partners, regional organisations like the African Union and the League of Arab States, and the UN. Anything the South does –as opposed to the NCP– that breaks with the CPA, like UDI, poses high risks.

Much against the CPA’s neat roadmap, this process is messy, ad hoc and intensely political with all the attendant dangers of destabilisation this entails. The road to the referendum is fraught with potential pitfalls but if it can be held on time, then its conduct will be important and, crucially, results and reception of possible outcomes. Managing the aftermath will become the key challenge.

#### *Prospects for South Sudan*

The issue of state-building is central to Southern Sudan’s future. The core challenge is that posed by the nature of the government of Southern Sudan. It may have a state-of-the-art liberal constitution and formal institutional architecture but, barely five years old, has only begun to establish itself from an extremely weak foundation. The transition from successful guerrilla movement to government has not been easy, quite aside from politics. The numbers of qualified, competent civil servants to administer the central state in Juba are scarce but the government has a large payroll. It is almost totally dependent on oil revenues transferred from the North. Security expenditure dominates the budget, understandably since the military is seen as the best deterrent against the North. Corruption is cited as the most important issue by Salva Kiir, having already undermined the government’s legitimacy.

The future international role in Southern Sudan is a major issue. A growing number of foreign consulates have been established in Juba, from Egypt, Ethiopia, Kenya and Uganda, to Libya, the US, the UK, Norway, China and India. The GOSS has called for a long-term UN presence and a UN force at the borders for the referendum. Based on needs and the calls by Southern leaders, it is clear that Southern Sudan wants and will need substantial international assistance in the future. The question of how the work of an already substantial and diverse international presence can be made to support, and not unintentionally undermine, the growth of an effective Southern Sudanese state remains a live conundrum.

Should the South become a new state, can it become a nation? This question is commonly asked in the face of ongoing intra-Southern conflicts and in a sense touches on how to make unity possible and attractive for Southerners in a future Southern Sudan. An important source of Southern unity in the past has been that produced by opposition to a



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shared Northern enemy. Relations between Southerners themselves will be a further ongoing challenge, with 'South-South' conflicts looking set to continue.

Any new state would also be vulnerable to possible conflict in the borderlands, which could become the new peripheries of Northern Sudan, or the North's 'new South'. Abyei thus looms especially large, as do the other border areas, which could themselves become new epicentres of conflict involving the South. The continuing war in Darfur and simmering tension in east Sudan poses threats. Any consideration of Southern Sudan's future prospects thus cannot be considered apart from the wider Sudan context in which it will remain embedded.

## Conclusion

### *'The Final Decisive Moment'*

Next to John Garang's Juba memorial there is a lantern lit 'In hope and prayers for every CPA Dictum including 2011 the final decisive moment'. New Sudan's former champion thought the best way to better Southern Sudan's position within Sudan was to create a reformed Sudan, and fought for this. Now, however, his memorial is close to becoming a shrine to the founding father of an independent South Sudan.

Southern politics is now squarely focused on the referendum. Perhaps too much hope is placed in the vote: to rectify perceived historic injustice of the denial of the right to self-determination and decades of suffering, to deliver peace and, finally, real development to correct entrenched marginalisation within Sudan. In September 2010, a new South Sudanese national anthem was released, to praise by many Southerners and condemnation by the NCP. Amongst other things, it exhorts Southerners to 'sing songs of freedom with joy, for peace, liberty and justice, shall forever more reign'. The eloquence of such aspirations in view of the history of conflict is striking; so is its distance from political reality. Despite today's prevailing sense of inevitability about the prospect of Southern political independence, much remains to be decided and such a result is unlikely to be achieved smoothly. The Southern referendum process, let alone Abyei should that happen, is fraught with dangers of being destabilised if not derailed.

Internal and external responses to the declared outcome will be important. There remains the probability of political turbulence. The best hope is that the two parties, supported where possible by international players, can implement the final stages of the CPA, conduct referendums whose outcomes can be agreed, finalise a deal on post-referendum arrangements and manage a consensual divorce. Deciding and managing the outcome is primarily Sudan's responsibility and is fundamentally a Sudanese process. External support is important and necessary to support this, but will not be sufficient if the political will to oversee a successful conclusion to the CPA is not maintained. Peace and stability in Sudan and the broader region depend on the Southern referendum being conducted and on the peaceful implementation of its outcome. The countdown to the scheduled vote, and that in Abyei, is proceeding rapidly, though this date may be delayed.

Not enough attention is being paid to how to respond to the main possible outcomes of the votes and what happens after. National, regional and international organisations need to prepare themselves for a range of possible outcomes, the best scenario being comparative peace, the worst a bloody war. The outstanding current challenge has become one of managing Sudan's break-up in such a way as to best ensure an absence of war. Any such achievement will be followed by the formidable challenges of sustaining

peace. Today, most Southern Sudanese look to the SPLM to deliver their independence. After that, they will also expect it to deliver development and base its legitimacy not just on its military record but also on its political performance. The CPA end-game is in full motion but Sudan's multiple transitions continue.

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