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THE INSIDE STORY

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Introduction

Dear Friends,

The Denis Hurley Peace Institute presents the second issue of *The Inside Story* – what we believe to be cutting edge insights into the countries that we work in. This issue features an analysis of the current situation in Sudan, five years after the Comprehensive Peace Agreement that ended 22 years of civil war. The article was written by John Ashworth, a long-time political analyst of the Sudan, and was first featured as a special report in *Worldwide*, February 2010. The article examines the increasing violence within the south of Sudan, the marginalization of the southern leaders in the Government of National Unity and the deepening mistrust of the southerners towards the Islamic rulers of the North, as factors that may derail the peace process as the country gears up towards the first general elections scheduled in April and the referendum on the self-determination of the South in 2011.

With best wishes,

Seán O'Leary
Director
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The tortuous path towards democracy

The Comprehensive Peace Agreement (CPA) signed five years ago on 9 January 2005 by the Sudanese government and the Sudan People's Liberation Movement/Army (SPLM/A) brought an end to 22 years of civil war in southern Sudan and the marginalized areas of southern Blue Nile, the Nuba Mountains and Abyei. However, the CPA is not comprehensive, not peace, nor is it an agreement. It is not comprehensive for two reasons: it only dealt with one of the conflicts in Sudan, and it is only between two warring parties, excluding all other political parties and military factions, north and south, as well as civil society. It is not peace. It is effectively a cease-fire agreement and a framework or road map for peace, which is scheduled for 2011. Of course it was a great achievement to move the conflict from the military to the political sphere, but this should not be confused with 'peace'. It is not an agreement. It was signed reluctantly by the ruling party, the National Congress Party (NCP), under intense diplomatic pressure. The final agreement is virtually identical to a draft presented by the Kenyan mediator, Lt Gen Lazarus Sumbeiywo, about a year earlier which the NCP had rejected outright with undiplomatic language, suggesting it should be flushed down the toilet. NCP appeared to give away more than they could afford, and the implication is that they never intended to implement it.

Northern Sudanese governments have arguably not honored any agreement signed with the South since 1947, so southerners are understandably skeptical about the worth of this one. The international community accepted the CPA at face value and turned their attention to Darfur. This was a mistake. The war was not yet over. The Sudan Islamists in power might have lost the battle but not the war.

In light of the above, the main, if unspoken, priority of the Government of Southern Sudan (GOSS) is preparing for the next war. It explains why SPLM has been slow to make the transition from an authoritarian liberation movement to a democratic political party; the conflict has not finished yet and they feel the need to present a strong front to the NCP while the political phase of conflict continues, and do not want to disintegrate just before the military phase breaks out again.

The basic problem in Sudan, whether in Darfur, the south or the east, is at the centre—the domination of Sudanese political systems by a small elite, currently embodied in the NCP regime, which seeks to control and marginalize the peripheries whilst also insisting on a particular cultural and religious identity for the whole of Sudan: the Arabic culture and the Islamic religion.

Violence in the South

In the last few months, there has been a significant increase in violence within the South, mostly between different ethnic groups. In the words of Archbishop Daniel Deng Bul, the primate of the Episcopal Church of Sudan, the increasing violence is 'the biggest concern in the country today. The only conclusion one can draw is that these are ancient disputes that are being deliberately stirred up into something much more damaging for the local people and the stability of our country as a whole. Who is doing this is still largely unknown, but it is evident from local reports received through the Church network that the

arms smuggling, re-armament and incitement of tribal violence is being carried out by enemies of the CPA’.

There are consistent reports that this is being instigated by elements within the NCP. Senior figures in the SPLM have blamed the North for supplying arms, and there are plenty of grassroots reports of military aircraft being used, and military uniforms and brand new weapons being seen. ‘We suspect with some evidence that our partners in the North are still training, arming and sending to southern Sudan the former militia groups who fought alongside them during the war’, said General Oyay Deng Ajak, Minister of General Co-operation in the GOSS. If the violence is being orchestrated, it serves several purposes: to discredit and undermine the CPA; to retard development in the South; to give the impression that the South cannot govern itself and to give an excuse for the North to maintain troops in certain parts of the South, e.g. the oil fields, to ‘maintain security’.

Three armies

During the negotiations that led to the CPA, the NCP demanded that there should be only one national army, the Sudan Armed Forces (SAF), and that SPLA would be assimilated into it. SPLA, believing along with most southerners that ultimately military power is the only guarantee that the CPA will be implemented, insisted on two armies, SAF in the North and SPLA in the South. The compromise was three armies: SAF in the North, SPLA in the South, and the Joint Integrated Units (JIUs), comprising 50% SAF and 50% SPLA, in key locations in the South and North (e.g. Khartoum).

In practice it has not worked. Not only are JIUs not acting under common command, but in many locations they are not able to stay together in the same barracks, and are placed several km apart. There have been cases of violence between the SAF and SPLA within JIU. The worst example of this happened in Malakal, the capital of the Upper Nile province. Here the Nuer militia (now part of the SAF contingent of the JIU) loyal to former warlord Gabriel Tanginya (promptly promoted Major-General by the Khartoum government), have fought with SPLA on two occasions (in 2006 and 2009) causing hundreds of deaths and injuries, and the flight of thousands of people from the city. Tanks, artillery and heavy machine guns were used.

The UN Mission in Sudan

During the peace negotiations, Sudanese church leaders were debating the need for an armed UN peace-keeping force with a robust mandate. One church leader stood up and declared, ‘Be careful what you ask for! You think you are going to get Canadian, Norwegian and South African peace-keepers. In fact you will get troops from Arab and Muslim states’. He has been proved correct.

There are significant numbers of peace-keepers from Muslim states (e.g. Bangladesh, Pakistan), from states with an interest in oil (e.g. India, China) and from Egypt, an Arab state which has a vested interest in the Nile water. While one would not want to question the professional neutrality of these armies, it seems strange that, following a war in which ethnicity, religion and oil were major factors, peacekeepers who are perceived as being linked to the enemy have been imposed on the South.

The UN peace-keeping mission in southern Sudan, composed of around 17 000 personnel, has generally been disappointing. One recurring complaint is their failure to patrol. Linked to this is their lack of knowledge of the context and their inability to analyze the situation properly. In situations where fighting has taken place, they have either been absent or unable to intervene effectively. While they have had some successes, there are serious doubts about the cost effectiveness of this hugely expensive operation.

Oil and borders

Oil creates a number of immediate problems in the South, but a key problem connected to the CPA is where the oil will be after 2011 in case of secession. Most of the oil is in the South, but a great deal of it is along the border. Already the Abyei region has lost oil fields following the ruling in The Hague, and since Abyei is expected to vote to join the South in anything like a free and fair referendum, that oil is potentially lost to the South. However, since the north-south border itself has not been demarcated, GOSS still hopes that some of that oil will find its way back into the South. In successive maps published in Khartoum since 1956, the border has been seen to move southwards. It will be a challenge for the Border Commission to reverse that trend.

The potential loss of oil revenue is a major problem for northern Sudan. While Khartoum does not depend as heavily on oil revenue as the South (over 50% of the annual budget as opposed to over 90% in the South), nevertheless it has been a key factor in both economic and military development. Future oil revenue plays a significant role in attracting foreign investment. Loss of this revenue may lead to serious destabilization in the North.

Thus, if the South secedes in 2011, a new oil compromise between North and South will be needed. An agreement to continue sharing revenue with the north would probably be politically unacceptable to southerners, but a commercial deal will be essential. However, while the South has the oil, the North has the pipeline and refining facilities. Even if a pipeline to East Africa is economically and logistically feasible, it will not happen quickly; meanwhile both North and South will be starved of oil revenue, leading to instability all round.

Government of National Unity

In the Government of National Unity (GONU) born from the Comprehensive Peace Agreement, 28% of positions have gone to SPLM. However the SPLM cabinet ministers are isolated and marginalized, and are little more than figureheads. Real power sits with the NCP counterpart in each ministry. It is widely believed that national security actively controls all significant ministries. As one minister of the South said, 'They give me a nice office, a big car, police escorts, but I have no power. My civil servants (who are NCP appointees) do not brief me nor show me documents, and they don't carry out my instructions'.

While SPLM has not articulated a public policy on GONU, it appears that they have given up on it. SPLM ministers in GONU continue to play the game, but the real energy of SPLM is channeled into trying to set up a viable government in Juba, the capital of the South, in preparation for independence.

Census

A national census, scheduled before the general elections in 2010 and the referendum in 2011, took place in May 2008 after several delays. The results of the census, indicating that there are 38 million Sudanese of whom only 8.3 million live in the South, are almost certainly not accurate. Southerners have rejected them completely as a basis for power and wealth-sharing, and for elections and the referendum. It is generally accepted that the results have been rigged in favour of the North.

Various conditions made the census in the South difficult, particularly logistics, weather, availability of personnel and census forms, and availability of funding for census personnel. Anecdotal evidence from workshops suggests that more than 40% of the southern population may not have been counted.

GOSS/SPLM made several key errors in the census process, which was always a political rather than a professional or technical process. The census did not include questions on religion or ethnicity. Since identity (both religious and ethnic) is one of the main root causes of the conflicts in Sudan, it seems incredible that this was omitted. SPLM was out-maneuvered by NCP into allowing the papers to be printed without these questions. One week before the census was due, SPLM dug in its heels and cancelled the census, but by this time it was too late and eventually it had to back down and allow the census to take place a week late.

After the census, the southern census body freely shared its raw data with its northern counterparts, but those in the North refused to reciprocate. It is generally believed that this is the point where the census was deliberately rigged, with northern statistics being changed in the light of southern figures. The southerners involved were mistakenly treating it as a technical rather than a political exercise. After the results were announced, GOSS and SPLM appeared to accept them, and only later challenged them officially. This points to miscommunication or worse within GOSS/SPLM.

Elections

In hindsight, it was a mistake to have elections during the interim period. This is a cease-fire period leading to the final peace deal after the referendum, and it would make more sense to leave the two signatories to complete the transition. Elections would then be held after the referendum, whether in two countries or one.

Nobody in the North or South believes the elections will be free and fair. The NCP held two sham elections during the war, and is experienced at rigging them. The conflict in Darfur will make elections there extremely difficult. Discussions among opposition parties in the North over an active boycott of the elections question whether anything resembling free and fair elections can take place in a climate of lack of freedom and the restrictive laws which are still in place.

‘Elections have been postponed twice, and there are indications that even if they will be held finally as scheduled now for April 2010, they may not be free and fair, based on experiences with the contested results of the recent census’, declared the Sudan Council of Churches.

Within the South there is a strong perception that the elections have already been rigged as a result of the census, which will be used to prepare the election and particularly

constituency boundaries. Given the census claim that only 20% of the population is in the South (instead of the more widely accepted 33%), there is a strong possibility that even in a 'free and fair' vote, northern parties would win a large enough majority to be able to change the constitution and potentially derail the CPA.

Many in the North oppose the CPA, particularly the option of secession for the south. Although the CPA itself and the interim constitutions state that parties can only participate in the elections if they respect the terms of the CPA, it will be hard to argue against the 'democratically expressed will of the people' if 80% of parliamentarians decide to scrap the referendum.

While SPLM would clearly favour a cancellation of elections, the picture within NCP is more mixed. Some might be happy to cancel them; others see it as a chance to legitimize the NCP regime and end the stigma of having seized power by force in the 1989 coup d'état.

The main danger from postponement or cancellation is setting a precedent for cancelling other parts of the CPA, particularly the referendum. A further danger lies in recent statements by the NCP 'that any action to stop the elections would threaten the political stability in the country and endanger the implementation of the Comprehensive Peace Agreement' in response to calls from opposition parties to boycott the elections. This is a very worrying statement as it could be seen as a precursor to a State of Emergency and other drastic security-led actions in the name of 'political stability', and could be an excuse to put implementation of the CPA on hold. Elections are important to northerners, and to the populations of the Nuba Mountains and Blue Nile.

Referendum

For most southerners (including southern opposition parties, many of which are more overtly pro-secession than SPLM), the referendum is the ultimate goal of the CPA. They are willing to compromise on many issues, and to overlook breaches in the implementation of the CPA, as long as they get to exercise their right of self-determination in 2011.

Thus the latest political battleground is the Referendum Law. During the peace negotiations, some voices from southern civil society urged that the Referendum Law be included in the CPA, but it was left out and has now become a problem.

The NCP is interpreting the priority for unity of the Sudanese nation as meaning that the Referendum Law must make secession difficult. Hence they called for a 75% threshold for secession. Most people in the South wanted it to be merely a simple majority. A compromise has now been reached with a simple majority for secession but a required turn-out of 60% of registered voters. There is also disagreement on whether southerners in the north of the country (there are three million of them living in camps around Khartoum) should be allowed to vote; where the seat of the Referendum Commission should be and who should be on it.

Even a simple majority is problematic. The logistic difficulties which have dogged the census will do the same for both the elections and the referendum. Although a huge majority of southerners want secession (over 90%, according to one survey), there still remains time for the NCP to chip away at their confidence in the GOSS/SPLM and the CPA, and to make promises about a united future.

The orchestrated violence in the South, and the inability of the SPLA to control it, adds further doubts. Perceptions of ethnic favoritism in GOSS may also alienate some communities. The census has already cast doubts on the true number of voters and where they are. The failure to set the north-south boundary leads to fears that some southerners might be disenfranchised by suddenly finding themselves in the North.

There is a suspicion that southern leaders will be 'bought'. A senior SPLA officer said frankly, 'They (NCP) will buy us intellectuals, politicians and leaders—we are corruptible. But they can't buy every single person in southern Sudan. So as long as we ensure that the people in the villages get the chance to vote, we will win secession. We only need 51%!' He may be proved right about being unable to buy the villagers' votes, but wrong about the need for 51%.

Post-referendum scenarios

If there is a vote for secession which passes whatever percentage has been agreed, there are still scenarios which could lead to further conflict. One is that the North might attempt to annex parts of Unity and Upper Nile States, to keep control of the oil and agricultural projects, having already stationed troops there for 'security', and claiming that a majority in those states had voted for unity. Or they may publicly acknowledge secession of the whole South, but argue that they need to maintain 'temporary' control of those states to ensure security for the oil fields. Or they may simply refuse outright to grant independence, seeking support from AU states which fear a domino effect within Africa and an international community which tends to support the status quo. The international community must resist all these scenarios.

Even if secession does take place peacefully, southerners need to articulate what sort of society they want in their newly-independent state, and to find a way of resolving ethnic tensions. They also need a pragmatic working relationship with their new neighbour in the North—the oil may be in the South, but the pipeline is in the North.

As the Sudan Council of Churches says, 'it is high time to also prepare for the period after the referendums and the popular consultations, and to start a process of identifying the implications of the various options, as well as to have a broad-based dialogue process to ascertain the future political and social setup'.

John Ashworth