

## **The Development of the Peace Process in Southern Sudan**

### **Introduction:**

The ending of the north-south war, which was expected to usher in an era of peace and security in Sudan, has dramatically altered assumptions about the viability of the Sudan itself as State. Perhaps more than at any other time, Sudan today is in the midst of acute political, social and military upheavals and dislocations. An example frequently cited as a testimony to this has been the speed with which the Darfur conflict was spurred and escalated, premised in part on the challenge of Sudan statehood. It is as though the Sudan State has gone from the frying pan into the fire. Mounting fears suggest that Sudan, failing to implement the CPA and other peace agreements, may soon disappear as a State despite halting attempts at democratization, decentralization, wealth sharing and power sharing made by those agreements. In this presentation I intend to establish why those fears abound and why they are misplaced.

The fact that Sudan is the first African country to accept post-independence application of the right of self-determination, the way that the GOSS started to behave as a State-in-waiting, the endless crises that the SPLM/A created in the GONU and the Presidency, and the rife insecurity, statelessness and lawlessness in Southern Sudan had created an impression that the very existence and viability of Sudan as a State is being challenged. This paper intends to establish that most perceptions about the viability of Sudan as a State and the performance of that State are misguided, and that virtually in every statistical category the Sudan State is in an upward spiral. I will do this through assessing the major political, economical, militarily and legislative indicators of implementing the CPA, being the paradigm to reckon with.

### **CPA and DPA Implementation Indicators:**

Politically, since the signing of the CPA and DPA the whole scene has undergone drastic change. By adopting the Interim National Constitution, which was accepted by all political actors, the Sudan is having its first consensual constitution since the abrogation of the Transitional Constitution of 1956. A representative Government of National Unity which is having a Southerner as the First Vice President, a Darfurian as the Senior Assistant to the President and an Easterner as an Assistant to the President is set up in accordance with the power sharing formula spelled out in that constitution. An autonomous Government of Southern Sudan is established. A regional coordinating body for the states of Darfur is constituted with a former rebel leader as its Chairman. A robust federated system of governance has also stood up elsewhere throughout the country. All political parties were formally registered including the Communist Party which was once expelled from an

elected parliament. The General multiparty elections for all elective offices are slated for early next year, with 25% of all seats reserved for women. Abel Alier, a nationally respected southern lawyer is chairing the Electoral Commission. World-renowned monitors like the National Endowment for Democracy (NED), the Institute for Electoral Systems (IES), and the Carter Center are already in the country advising the Electoral Commission and running civic voter education programs.

Economically, the IMF has noted that the GONU has quadrupled spending in real terms since the CPA was signed on projects that mainly benefit the poor. Notwithstanding a huge backlog of acute economic development needs throughout all parts of Sudan, attempts for fairly redistributing national wealth are pursued in earnest. Since the CPA was signed and until last April US \$ 6.5 billion in net oil receipts has been transferred to the Government of Southern Sudan and US\$ 600 million to South Kordofan, Blue Nile and Abyei. Since The DPA was signed USD 900 million were transferred to Darfur. All those transfers were made on monthly basis, in a transparent fashion and with very detailed publicity. It is on record that Sudan is the only significant oil exporter in the world that has consistently racked-up budget deficits over the last five years owing to, as noted by the IMF, cash transfers to State sub-units.

Militarily, the ceasefire between the Sudan Armed Forces and the SPLA has held up remarkably well with the exception of two short skirmishes in Malakal and Abyei. Sudan Armed Forces had long completed the redeployment outside Southern Sudan. Other Armed Groups that fought along with Sudan Armed Forces are fully integrated either in SAF or SPLA under UN monitoring.

Legislatively, the all-important National Security Bureau Bill has been tabled with the National Assembly last week. This, along with the Penal Code, Criminal Procedure Act and Press Act completes all new legislation needed to ensure a fair and free election. The Bill of the Self-determination Referendum is being currently debated with. Nonetheless, once there is a will and determination, there shall be no reason for fear. I will revisit this issue to shed some light on the controversy currently underway.

The Abyei issue, which marred the Sudan politics for long four years has been finally put to rest when the two Parties accepted the Hague ruling. Nonetheless, issues of the Abyei referendum are still waiting to be resolved.

All this is being achieved despite the negative impact of the US economic sanctions on federal public finances, tremendous military and security demands imposed by the conflict in Darfur, mushrooming ethnic conflicts, demanding social movements and increasingly prejudiced and irrational crusade for the implementation of the CPA.

### **It Takes Two to Tango:**

As a general principle, implementation of any peace deal is the responsibility of its two parties. By exerting maximum pressure on one party while completely absolving the other from any responsibility the implementation process is put at risk. I will mention few examples to show that actions and inactions of the SPLM/A affecting implementing peace deals sign.

On signing the CPA, the SPLM was supposed to arrive in Khartoum during the pre-interim period to prepare for so many tasks scheduled to start in that period. The late arrival of the SPLM in Khartoum towards the end of the six-month pre-interim meant that all the implementation deadlines were to suffer from an initial slippage of six months.

Failure of HE the First Vice President to arrive from Juba on a weekly basis to convene a regular meeting for the Presidency in Khartoum, led to the fact that the Presidency, in spite of the tremendous role assigned to it by the CPA, is now the only constitutional body with no periodical meetings. Unlike the Council of Ministers and the National Assembly, for instance, which convene regular meetings on certain days of the week, the Presidency convenes only emergency and extra-ordinary meetings when need be. This resulted into a huge back log including CPA business and fundamental issues pertinent to the smooth running of the State.

When the SPLM postpones twice the National Census and the process is consequently derailed they shall shoulder the responsibility for all the consequences that followed including the resultant delay in demarcating the electoral constituencies.

When the SPLM withholds the name of their nominee in the 1956 Borderline Commission for a whole year they shall bear commensurate responsibility for the delay in that all important process.

Withdrawal of SPLM ministers from GONU for two months led to an overall slippage in the implementation schedule that exceeded three months in average. I was a member of the Six-man Committee tasked to draw a matrix basically to rectify that slippage.

UNMIS identified the SPLA crossing of Bahr el Arab to Abyei town, in contravention of the Cease-fire Arrangements, as the main reason that lead to the skirmishes which razed Abyei town to the ground, the major violation that we ever had for the CPA.

UNMIS also states that in spite of full withdrawal of SAF troops from the South only 13.7% of the SPLA troops actually withdrew from the north.

The SPLM/A insistence on the Abyei Experts report over four years, though it was clearly flawed and designed only to include the northern oil fields in the Abyei Area, had impacted negatively the whole atmosphere of the implementation of the CPA.

This brings me to the issues that currently take the lime light, and the conclusion of my presentation.

### **Current Issues:**

The Referendum Bill:

The major issues of controversy are: definition of eligible voter, geographic area of registration and voting, composition of the referendum commission, turnout and approval requirements.

The SPLM expresses fears that voters in the motherland will be less likely to vote for secession, and that the votes are likely to be rigged. There is no suggestion that this is true. In East Timor voting took place in Indonesia and resulted in no particular concerns. In neighboring Eritrea 54000 out of the 250 000 Eritrean refugees voted from Ethiopia. 98 % of them voted for independence.

The two quorums of turnout requirement and approval requirement insisted on by the NCP are by no means peculiar to Sudan. A good example of a supermajority was used in the 2006 referendum of Montenegro, which has become the gold standard of best practice, where the law stipulated that independence is to be approved by 55 percent of voters. The total turnout was 66.5% where 55.5% voted for breaking from Serbia. In 1979 a special majority was required in Scotland's referendum for self-government. In Sudan itself a supermajority of three quarters of all the members of the two chambers of the parliament sitting separately is required to amend the constitution. So to talk about simple majority in a crucial issue of unity and secession is ridiculous.

This issue has been now the main agenda item in the trilateral talks with the US. The parties are engaged in non-stop talks that took them to Washington, Khartoum and Juba twice each during two months time, and will now be reconvening in Nairobi next week. Being the first bill of its kind in Sudan and Africa, one should expect it to be as thorny and complex as it is.

The Census Result:

The census result was approved by the Presidency including HE the First Vice President, and accepted by the UNFPA. Election constituencies have been demarcated by the NEC using the census result. It is too late in the election cycle to reorganize constituencies and still hold elections in April. The south only concern is that a decrease in its representation in the GONU in the final year of the CPA, reflecting the census figures, could negatively affect its interests. As a matter of fact there will be no crucial bills or other undertakings during the last year. Nonetheless, options are now been considered for the way out of this stalemate. The NCP is considering a US proposal that a compromise is to be reached in which the existing constituencies are to be maintained but the parties find other ways to address the South concerns about representation.

House of Commons Speech, London 13-14 January 2009.

Dirdeiry Mohamed Ahmed,

Member of Parliament, Omdurman, Sudan.

## **Curriculum Vitae**

### **Name:**

Dirdeiry Mohamed-Ahmed

### **Qualifications:**

**PhD (candidate)** University of Leicester, UK: Thesis on the Right to Self-determination, Sudan case.

**MSt.** International Human Rights Law, University of Oxford ( 2008/9 Cohort)

**LLM.** University of London.

**LLB,** honours, University of Khartoum .

### **Current Position:**

- Advocate and Commissioner.
- Member of the National Assembly (Parliament).
- Alternate Chairperson and legal advisor of the Ceasefire Political Commission.( Which monitors implementation of the cease fire between the north and the south as per the CPA).
- Co-Chairperson, Evaluation and Assessment Commission of the Implementation of the Southern Kordofan Protocol.

### **Former Positions:**

- Agent of Government of Sudan to the Abyei Delimitation Arbitration (between the GoS and SPLM) at the Permanent Court of Arbitration, The Hague, The Netherlands, August 2008-July 2009.
- Member and spokesperson of the Six-Man Committee, which charted the way forward after the SPLM Ministers withdrew from the Government in 2007 by agreeing on the Implementation Matrix for the CPA.
- Member and Spokesperson of the first National Constitutional Review Commission that adopted the Bill of Rights and the Interim National Constitution 2005.
- Co-Chairperson of the Seven-plus-Seven Committee; a committee that prepared the bill of the Interim National Constitution of Sudan, February-March 2005.
- Ambassador and Permanent Representative of Government of Sudan to the IGAD peace talks, Nairobi, 1999-2005.