



Situation Report

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Dual realities: Peace and war in the Sudan – An update on the implementation of the CPA

Introduction

Global news headlines continue to report the political impasse and consequent loss of civilian life in Sudan's western state of Darfur, but there is decidedly less attention on what is essentially a fragile peace between the former warring factions of Northern and Southern Sudan. Indeed, almost 30 months after the signing of the Comprehensive Peace Agreement (CPA) in January 2005 there is little confidence that any significant change will occur in what remains of the Interim Period. Certainly the precariousness of the CPA impacts, and will continue to impact, upon both the Darfur Peace Agreement and the Eastern Peace Agreement as it acts as a basic document upon which the legitimacy of the Government of National Unity and the Government of Southern Sudan are based. As the incoming Secretary General of the United Nations, Ban Ki-moon suggested in his opening report on Sudan in January this year,

Of central concern, the principles of the Agreement related to political inclusion and "making unity attractive" have yet to be fully upheld, and much remains to be done if the parties are to achieve their ambitious goals set out in the Machakos Protocol and in subsequent Protocols (UN 2007a).

This situation report highlights some of the most pressing challenges to the implementation of the CPA from the perspective of the political incumbents, international observers, and sectors of civil society including the Sudanese media. It is based on a large number of field interviews undertaken in March and April 2007 and on previously published research. The report also analyses the current positions of the principal political players – the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) – with a view to mapping possible scenarios in the run-up to the key 2008/9 national elections.

There is little doubt that there has been a movement away from the discourse on a "New Sudan" towards an acceptance of separation as a more likely outcome of the anticipated 2011 referendum. There are certainly competing views on whether the national transformatory vision of the "New Sudan" was a view held by the SPLM collectively or one limited to John Garang and his core allies. Indeed, the mutual suspicion between North and South was demonstrated powerfully by the riots that affected Khartoum and the former garrison town of Juba in the immediate aftermath of Garang's death. The loss of John Garang as the charismatic leader of the SPLM had two major effects: first, it deprived the SPLM of a military and intellectual leader and, second, it gave the freshly legitimated NCP the leeway to return to the politics of security. While the initial signing of the CPA presented

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a more pronounced challenge to the cohesiveness of the ruling party, Garang's demise left a weaker and less focused Southern counterpart, internally distracted by tribal politics. The predominance of what could be termed the "securocrats" within the ruling establishment has affected the progress and perception of the Interim CPA Period, leaving aside the situation in Darfur.

One veteran Sudanese journalist explained the change in the following way,

Before there was a need to challenge the leadership of Garang as an intellectual, so the NCP focused on individuals like (Osman Ali) Taha but in his absence and without a national leadership capable of implementing the CPA the focus is on consolidating the security apparatus (pers. comm., Khartoum, 25 March 2007).

During the first Partnership Follow-up Political Committee meeting with the NCP in May 2006, the SPLM cited the following as key markers of progress on implementing the CPA.

1. No major outbreak of hostilities
2. Freedom of movement, goods, services and people
3. The formation of the Joint Defence Board (JDB)
4. Redeployment of forces
5. The formation and redeployment of the Joint Integrated Units (JIUs)
6. The establishment of DDR Units
7. Formation of law enforcement agencies
8. Initiation of the merger process of the security services
9. The signing of the Juba Declaration incorporating major Other Armed Groups (OAGs)

It must be remembered that a large part of the acceptability of what is sometimes called the "one country, two systems" arrangement enshrined in the CPA is its provision for the coexistence of two armies, the SPLM and the SAF, with a Joint Integrated Unit (JIU) element deployed in particular areas. These security arrangements were seen as critical to building trust in the CPA, as opposed to the numerous earlier agreements abrogated like the 1972 Addis Ababa Agreement, which rekindled the civil war. However, as the following discussion highlights, since May 2006 there have been significant stumbling blocks to the effectiveness of the institutions and agreements listed above.

November 2006 saw the most serious ceasefire violation since the onset of the Interim Period. This involved clashes between groups within the Sudan Armed Forces (SAF), the Sudan People's Liberation Army (SPLA) and, significantly, elements of the former Khartoum-affiliated South Sudan Defence Force (SSDF) that lasted three days. Created in 2001, the SSDF was composed of some twelve other smaller Southern groups largely used as proxies for the Khartoum regime. It is important to note that its main areas of operation have been in the oil-rich regions of Unity State, Upper Nile State and Bahr El Ghazal. Analysts who believe that the rest of Southern Sudan does not necessarily hold much strategic importance in terms of wealth-sharing mark these areas as the "next frontier" for an outbreak of hostilities.

In the past the SSDF was used to protect the oilfields and, in particular, the military trains that supplied SAF strongholds such as Aweil and Wau in the western part of Southern Sudan. In addition, the largely Nuer ethnic base that forms the SSDF has made it an even more important element in the sensitive tribal map of the region, as the SPLM is increasingly wary of being perceived as a Dinka-dominated movement. As a result there has been a critical need to capture the "buy in" of the SSDF in order to guarantee the neutralisation of potential CPA spoilers. The January 2006 Juba Declaration on Unity and Integration was meant to reconcile the SPLA and SSDF in military terms, and was hailed as a diplomatic coup for the then freshly anointed Salva Kiir. This agreement saw the appointment of SSDF leader, Paulino Matiep as the Deputy Chief Commander of the SPLA.

On 27 November 2006, a dispute over the commissionership of a county in Jonglei State led to violence between the SPLM's JIU contingent and elements of the SSDF, who later sought refuge in an SAF garrison, thereby drawing the latter into the skirmish. More particularly, the political aspirations of former SSDF Commander Gabriel Teng brought him into conflict with the SPLM leadership of the area. Teng's desire to have a political role while concurrently retaining control of bands of militias presents a major challenge to the way in which the SPLM deals with other Southern forces. The incident also emphasises the power of those outstanding Other Armed Groups (OAGs) still operating in the region. In the words of one analyst working in the region for more than a decade,

... somehow there is a growing feeling that the Southern people have been hoodwinked by the SPLM's projection of power. By deemphasising the threat of groups like the SSDF, people underestimated the importance of someone like Paulino Matiep who can still do a lot of damage, and who will definitely be key to the oil politics in the region (pers. comm., Juba, 1 April 2007)

The Malakal incident claimed the lives of some 150 people, including civilians, as weak command and control over the fighting forces resulted in little differentiation between civilians and combatants. This particular case of violence can also be viewed as a direct example of several lags in the implementation of the security arrangements, which include the creation and functioning of the National Disarmament, Demobilisation and Reintegration Coordination Council (NDDRCC), the Joint Integrated Units and the incorporation of Other Armed Groups.

The National DDR Coordination Council, which has the prime responsibility for policy formulation, oversight, review, coordination and evaluation of the progress of the Northern and Southern DDR Commissions, was formed in February of 2006 by Presidential Decree, but has since met only twice. As pointed out in the UN Secretary General's Report of April 2007 (UN 2007b), this has impacted upon the functioning of the regional commissions that are still to clarify the eligibility and entitlements for target groups of former combatants.

Moreover, the delays in the functioning of the NDDRCC have significantly exacerbated a disconnect between planning for DDR and transforming the SPLA, and addressing the demobilisation of SAF-related militias in the South (UN 2007b). Within this context there are two urgent questions that remain unanswered.

1. What is to become of former SSDF remaining in the South who are now technically the responsibility of the GoSS's DDR unit. And how will the GoSS balance the competing interests of former SPLA soldiers with those of the former militia both under their area of responsibility?
2. What will be the fate of former SAF forces who want to remain in the South and who will also have to be accommodated by the Southern DDR unit? Some 5,000 ex-SAF forces took to the streets of Juba earlier this year to protest the delays in the payment of their monthly salaries. To date there are some 7,750 "voluntarily demobilised" soldiers who will continue to receive SAF salaries until the establishment of a functioning DDR programme.

The Government of Southern Sudan is now providing food to these ex-combatants for a period of three months and it is assumed that this exercise will be used as a means to register the total amount of former SAF troops remaining in the South.

The JIUs are crucial to the security arrangements, not only because of their obvious military capacity, but also their important symbolic and confidence building value. At this point it is appropriate to revisit the CPA's description of the JIUs. According to the Agreement (CPA 2005, 88)4;

The JIUs shall consist of equal numbers from the Sudanese Armed Forces and the Sudan People's Liberation Army (SPLA) during the Interim Period. They should have a new character based on a common doctrine.

They will be,

1. A symbol of national unity during the Interim Period
2. They will be a symbol of sovereignty during the Interim Period
3. They will participate in the defence of the country together with the two forces
4. They will provide a nucleus of a post Interim Period future army of the Sudan should the vote of referendum confirm unity
5. They shall be involved in the reconstruction of the country

...The size and deployment of the Joint/Integrated Units throughout the Interim Period shall be as indicated as below:

- Southern Sudan: twenty-four thousand (24 000)
- Nuba Mountains: six thousand (6 000)
- Southern Blue Nile: six thousand (6 000)
- Khartoum: three thousand (3 000)

The Malakal incident has highlighted a marked lack of integration among the JIU contributing troops, which for all intents have maintained separate command and control structures. Until February of this year the units had no common doctrine, largely because of disagreement on religious and cultural orientation. Added to this were complications related to delays in salary payments and accommodation facilities for these forces. Although the issue of a common doctrine has now been addressed and the JIUs are currently at about 77 percent of their final strength (30,112 troops), the good faith implementation of the JIU function is being tested by the type of troops contributed. Instead of regular troops, both the SAF and SPLA have instead deployed former SSDF and newly affiliated Other Armed Groups (OAG) to the JIUs raising serious questions about the motivation of both sides. Taking a closer look at the areas in which the JIUs are functioning with former OAG as troops it is clear that these are largely in the key oil-producing areas of Malakal, Jonglei and Upper Nile State. Both the SPLA and the SAF forces have been maintaining equipment and arms on either side of the border of the Bentiu region (pers. comm., Juba, 30 March 2007).²

It must be emphasised that the SSDF is not the only militia group with the potential to destabilise the Interim Period, but are one of several forces that include the former Ecuatoria Defence Force (EDF) based in Eastern Ecuatoria. Theoretically the EDF has signed on to the OAG protocol and has been absorbed by the SPLA and SAF in roughly equal numbers. But the increasing distrust of ill-disciplined SPLA soldiers (many of whom have been involved in randomly exacting taxes without authority or discretion on the *boma* and *payam* level) can in fact reinvigorate unaligned militias, and the EDF in particular. Indeed, the perception that the former liberation movement is now the "Dinka SPLM" was emphasised by one political analyst who explained that, "The SPLA are losing the battle of hearts and minds on a daily basis due to insecurity, taxes and corruption. The friction between Kiir and Machar also means that the EDF are likely to be onside with Machar" (pers. comm., Juba, 30 March 2007).

It should be remembered that the EDF was largely composed of the Toposa tribe of Eastern Ecuatoria, who historically have had a deeply antagonistic relationship with the SPLA. Towards the end of 2006 the Torit-Juba route became the site of numerous ambushes of SPLA troops, and between 120 to 300 civilians were killed. The SPLA will therefore have to gain the confidence of former militia commanders if it is to resolve internal Southern Sudan security challenges effectively. It will also have to use a strategy of south-south co-operation as a way of countering the continued presence of the Lord's Resistance Army (LRA) in Ecuatoria.

The SPLA's attempts at forcefully disarming the "white army" of the Lou Nuer people in Jonglei early last year led to all out clan based clashes that lasted some three weeks and claimed the lives of an estimated 1,700 people (Young 2007). Without going into detail, it is necessary to emphasise what John Young has explained in his extensive research on the repercussions of this campaign. He argues that the heavy-handedness of the SPLA is partly explained because, "...the SPLM/A did not achieve state power through military victory over its enemies (including its internal opponents), but as a result of a peace agreement engineered by the international community, it was anxious to assert its hegemonic position in the South, and that was best accomplished by forcing friends and enemies to accept that its army alone had the right to bear weapons" (Young 2007, 4).

In the Murele dominated region of Southern Jonglei and upper Eastern Equatoria the SPLA has recently gained the cooperation of Commander Ishmael Kony, head of the Pibor forces based in Juba, Kassengo and Pibor. Kony has had a long relationship with the NCP, however, and will have to be assured of a powerful position within SPLA structures in order to maintain the loyalty of the Murele to the SPLA. Once again, the SPLA's unilateral approach to dealing with other Southern groups will have to be revised if they are to build a more stable constituency for the elections.

At the time of writing, the *Sudan Tribune* reported the kidnapping of a senior militia officer in Torit. It is alleged that armed men from the SPLA kidnapped the man who is also a senior officer of the Other Armed Groups Consultative Committee (OAGCC) after looting his residence. This also follows other reports of clashes between a JIU soldier from the SAF and a Wildlife Guard, again emphasising the extreme fragility of the current cease-fire (Sudan Tribune 2007a).

The scenario described above highlights some of the key weaknesses in the security arrangement pertaining both to the capacity and political will to implement the deal. And although the lack of progress on the DDR policy and sufficient international support for reintegration programmes are certainly going to remain problems in the longer term, the current time-lags in the redeployment of the SAF and SPLM across the 1956 borders will have to be addressed with some urgency.

According to the CPA:

Except for those deployed in the Joint Integrated Units, the rest of the forces of the SAF currently deployed in the South shall be redeployed North of the South/North border of 1/1/1956 under the international monitoring and assistance within and up to two and one half years from the beginning of the Interim Period (CPA 2005, 88).

Based on this, redeployment would have to be completed by at least the end of 2007. And even though there has now been an estimated 70 to 80 percent redeployment of SAF forces from the South to the North, only some 48 percent of those troops have redeployed from the controversial Upper Nile and Unity areas.

There are a lot of disgruntled men with guns who are not being taken care of from either side, added to this is the fact that elements of the SAF are not being rotated out in time. It is creating the impression that they don't want these troops out. This is a tinderbox situation. People are not saying if, but when, the war will restart (pers. comm., Juba, 30 March 2007).

With the 9 July deadline for SAF redeployment fast approaching it is hoped that there will be a more concerted effort made by the JIUs and the Joint Defence Board to meet the CPA timetable.

Leaving aside the actual physical deployment of the troops, there is also the practical question of defining where the 1956 borders actually fall. Not only does border demarcation affect the areas of deployment, but it is also controversial because of its likely impact on creating or eradicating constituencies for the 2011 referendum and the now more urgently anticipated 2008 elections. The crucial wealth-sharing aspect of the agreement (which entails the sharing of oil revenue between the North

and South) is also significantly affected by the determination of the borders.

The Technical Ad Hoc Border Committee responsible for demarcating the 1 January 1956 border between North and South has made little progress. The committee met for the first time in April 2006, six months later than scheduled. Although the committee has completed its review of maps and has started work with local communities, there is little sign that the demarcation will be completed in time for effective election preparation, as the SPLM and NCP are unable to reach a consensus on the technicalities (see **Elections**).

The 1956 border question is separate to the other contentious, and as yet unresolved, problem of the Abyei border. Abyei is currently being administered by a group of civil society bodies in the absence of a legitimate administration.³

Rule of law

Without strong civilian institutions to support the interim constitution, the propensity to resort to violence and arms to administer justice will remain a threat to stability and political pluralism in the immediate future. In addition, the past months have seen numerous high profile reports of corruption within the GoSS, the most recent cases involving the Minister of Finance and the Deputy Commander of the Army. To his credit, President Salva Kiir has acted swiftly to make public statements on his administration's "zero tolerance" policy and has suspended both individuals. However, without the appropriate legal oversight mechanisms in place it will be difficult to deter self-interested individuals from abusing the new injection of state funds.

Judiciary

Although the role and functioning of the judiciary are well defined under the CPA, (particularly the demarcation of the Supreme Court, Court of Appeal and High Court) and the 2006 donor agenda clearly emphasised the importance of good governance, the capacity and competence to implement these mechanisms is an acute challenge for Southern Sudan. The near continuous state of war since 1956 meant that virtually all rule of law institutions in the South have ceased to exist. This has created a major vacuum in civilian understanding of the roles and powers of the courts and police. Not only is military affiliation still seen as an important avenue to power, there is a distinct lack of political commitment to demobilisation that would otherwise help to neutralise military influence in civilian affairs.⁴

Looking at the priorities of both the GoSS and the GoNU, it is clear that the military still tops the agenda with almost 40 percent of the GoSS budget going to the military. Taking over the Rule of Law functions from the SPLA has been a bit of a monster for the new institutions (pers. comm., Juba, 1 April 2007).

Southern Sudan has a severe shortfall of competent legal and judicial personnel in government service, with less than 150 people in the entire region having appropriate legal qualifications, including judges, lawyers and prosecutors. Consider that there are only two trained public prosecutors practising in Southern Sudan to date. Moreover a large majority of those who are qualified have in fact been trained in Arabic and in the *Shariah* legal system, which is now applicable only to Northern Sudan. The lack of capable prosecutors has had a major impact on the fair and timely trial of significant number of people currently in detention without charge. In such an environment, people who are appropriately skilled have become the bedrock of government machinery, and in their absence everything comes to a standstill.

Aside from the lack of educational facilities to train new legal staff there are also other "push" factors that have lead to the academic and professional brain drain in the South, including the deployment to Khartoum of many of the competent Southern professionals to represent the GoSS in the national government, and the loss of educated Sudanese to the United Nations Mission in Sudan (UNMIS) and international NGOs.

South Africa and Uganda have both signed capacity building agreements with the GoSS to provide training to Southern Sudanese officials in the fields of administration and governance. In the case of South Africa the programme is

specialised towards Governance, Diplomacy and International Relations training and some 450 Southern Sudanese have completed the training to date. Although this approach to developing “change agents” for a new Sudan has produced a high number of graduates there has been limited assessment of how these graduates are faring in the post-training period, or indeed whether the English-medium training was understood by all participants.

In order for those who are sent (on the exchange programmes) to be change agents, there must be some mechanism put in place to monitor how many people are actually in the service and using the training. At the ministry level you will always find very competent and eloquent people but the problems are at the day-to-day administrative level: that is where the main challenge is. Also one has to question whether those sent on the training are the appropriate ones or if only the political connected are gaining access (pers.comm., Juba, 1 April 2007).

Another issue that is likely to complicate legal administration and reform is related to the use of statutory instead of customary law. In a highly traditional society that organises itself on the basis of tribal and customary law the introduction of statutory law must not only be consistent with the interim Southern constitution but also cognizant of the customs that predominate in the region. In theory, statutory law is to be applied to all levels of administration above the *payam* (town)⁵ level, and those below the county are to be administered by traditional law. The definition of a *boma* (village) and *payam* (town) is contingent on the physical number of people living in the area. For this reason legal definitions will also be intimately linked to the return of the millions of Sudanese refugees and internally displaced people (IDPs) back to the South. To date the Local Government Act, which should provide the necessary guidelines for the formation of local government administration, has not yet been passed.

The present environment of physical insecurity described above requires a countervailing civilian administration in which the roles of the military, judiciary and the police in particular, are well defined. Southern Sudanese leaders have argued that the post-colonial experiences of numerous other African countries (such as South Africa) would be useful in assisting the Sudanese in creating appropriate mechanisms that can marry local customary law with the broader statutory legal framework.

The Sudan presents one of the most complex post-conflict reconstruction challenges on the continent. Not only was the civil war the longest running African conflict, leaving a deeply psychologically traumatised population, but the sheer size of the country will make reconstruction and development a monumental task. Added to this is the complete lack of basic infrastructure in large parts of Sudan, including some of the most marginalised areas considered as part of “Northern” Sudan such as the sorely underdeveloped eastern Beja region (leaving aside the enormity of the war-affected region of Darfur that is also a part of the North as per the CPA). A large part of this planning will be contingent upon the completion of an accurate population census.

Since 1956 Sudan has conducted four censuses, the last undertaken in 1993. But as the UNFPA highlights, the data provided by the 1993 census is neither useful for planning and development purposes nor for any kind of indicators because of the changing nature of the socio-economic and demographic characteristics of the population, particularly in the South (UNFPA 2007). Moreover, the census is critical to providing benchmark data for power and wealth sharing, and primary data for the elections and referendum.

There are three main pieces of legislation that provide the legal basis to undertake a fifth population census: the CPA, the Government of National Unity Presidential Decree of February 2006 and the Government of Southern Sudan’s Presidential Decree of September 2006 (UNFPA 2007).

First, the CPA stipulates that a census should be conducted before the end of the second year of the Interim Period (July 2007). More importantly, the census is one of the pre-requisites for holding nationwide national elections, which according to the Interim National Constitution and the Implementation modalities shall not be “later than the end of the 4th year of the Interim Period” (Interim National Constitution 2005). These elections are expected to be a watershed moment in the history of Sudan and a first indication of the sentiments towards secession or unity, and will also provide data for the adjustment of the power-sharing percentages on the national level currently allocated to the NCP and the SPLM.⁶

According to the CPA the preparation, planning and organisation for the census should commence as soon as the Peace Agreement is signed, and should be completed some 6 months before the holding of elections. The CPA mandated the South Sudan Commission for Census, Statistics and Evaluation (SSCCSE) in Juba and its Northern counterpart the Central Bureau of Statistics (CBS) to implement the census.

Despite the passing of the presidential decrees for both North and South establishing the commitment to the census, related activities have not produced enough progress realistically to meet the CPA timetable. The challenges facing the census project are both technical and political in nature.

To begin with, both regions have set up parallel committees (census council, finance, technical and media) creating a feeling of “two” censuses being undertaken instead of just one, and approval being required at regional level rather than at federal level (UNFPA 2007).

Second, none of the committees are functioning at state level let alone county level. Third, despite the overwhelming amount in pledges made by international donors towards the implementation of the CPA, funding for the census remains inadequate. The GoNU has only disbursed \$9.2 million of the \$14.3 million it was meant to provide to the GoSS in 2006. Meanwhile the MDTF has provided a total of \$9 million for operations in both North and South.

Major challenges to the cartography phase undertaken in 2006 included the non-availability of funds, equipment and vehicles to undertake the large-scale mapping.

The SSCCSE is not receiving enough support from the Government of Southern Sudan; their capacity is extremely limited. For such a project in an environment that is so infrastructure poor the census commission would definitely need access to satellite technology and air assets, none of which is currently available. Southern Sudan will soon be in the midst of the rainy season (lasting from July to November) that will certainly make operations more expensive (pers. comm., Juba, 28 March 2007).

According to the SCCE, \$12 million would be required for the mapping exercise alone, and some \$500 million for the pilot census, which was delayed from November 2006 to April this year.

A less considered factor is the difference in the cost of living between the North and South, the latter being a significantly more expensive area in which to operate and, indeed, to retain qualified staff. As the Director of the SSCCE explained, “One of our main problems is getting and keeping qualified staff from the South because very few people are willing to work for \$15 a day when they can go to the international NGO’s and the UN for much more” (pers. comm., Juba, 1 April 2007).

Additionally there is “some confusion in the role of some of the committees vis-à-vis the CBS and the SSCCSE who should actually implement the census. For example in the area of census advocacy there is a tussle between the Ministry of Information and Communication and the CBS/SSCSE about the implementation of the publicity and advocacy programme on the ground” (UNFPA 2007).

At the time of writing, an investigation was initiated to look into a fire that destroyed large parts of the SSCSE offices. According to the Information Technology Officer, Manyon Thieu, information critical to the census was lost and would have to be recovered from other states. This will certainly add to the already delayed census process.

Finally, the ongoing situation in Darfur together with the localised conflicts in the South such as those in Malakal and Juba have the potential to completely derail the progress of the census, as both resources and access continue to be dependent on the security situations in these areas. In its February 2007 report, the UNFPA argued that the “derailment of the census process will impact on the planned elections and the referendum and may lead to the resumption of long term instability in Sudan”. Related to this is the potential for demographic engineering to influence the outcome of the census and thereby the 2011 referendum. Several aid workers involved in the repatriation process have voiced their concern over what appears to be the forced movement of people back to their “areas of origin”, particularly in places where the lack of services would in fact exacerbate the competition for local resources and add to an environment of instability such as Bahr el Ghazal and Malakal (pers. comm., Khartoum, 25 March 2007).

As noted previously, the census is a key part of getting the elections process started. In the absence of progress with the census, it might have been assumed that at least an electoral commission would be formed to begin to plan for the elections as envisaged by the CPA and the Interim National constitution. This is not the case, however, as the requisite electoral law remains to be passed. In effect, this means that instead of setting up an electoral commission to drive the development of relevant election laws, the establishment of a commission is dependent on the promulgation of the law. The drafting and promulgation of this law is, in turn, dependent on the National Constitutional Review Commission (NCRC), which is responsible for collating the various political parties’ and states’ perspectives relating to an Electoral Law. The deadline for these submissions was extended from February 2007 to the end of March and has since been further extended. It is urgent that the electoral law be passed during the current session of the National Assembly, which runs until the end of June, as the following session, which runs from October to December, may result in a compressed, though possibly manageable, timeline. The electoral law would be key to determining what system of elections will be used: for example the First Past the Post (FPP) or the Proportional Representation system. At the time of conducting field research in Sudan (March/April 2007) there was no indication from either the SPLM or the NCP as to what system their respective parties would favour. Moreover, the Act would also help clarify whether or not Sudanese in the Diaspora, who number several millions, would be able to vote and whether they would be able to put forward an independent constituency as “Sudanese abroad”.

It can be argued that the real test of participation and commitment to fair elections will lie in the composition of the Electoral Commission. This body is to be made up of between seven and nine impartial national figures and is directly chosen by the Presidency with the consent of the First Vice-President (Interim National Constitution 2005, art 58 (2)).

Smaller opposition parties, and the National Democratic Alliance in particular, voiced their dissatisfaction over the Political Parties Bill passed in early January. The main point of contention centred upon Article 18 B of the draft legislation which provided for the dissolution of any political party whose principles ran contrary to the spirit of the CPA. The Bill has since been adopted but the sense that the bipartisan nature of the CPA excludes the potential for democratic participation of other parties remains a core concern for the opposition.

Considering the state of war that has prevailed in the Sudan, the landscape for democratic participation in multiparty politics has been almost non-existent. Certainly, much has been made of the fact that the ruling National Congress Party lacks substantive legitimacy with the ordinary populace outside of those

involved in the oil and security sectors. However, this must be qualified by an understanding of how the “Islamist” agenda has been manipulated as a popular form of mobilisation. In order to make this link it should not be forgotten that the National Islamic Front (NIF) – which formed the basis for the Congress Party – exploited the weaknesses of the Sadiq Al Mahdi regime to great effect when it seized power in a coup in 1989. The NIF had been able to build upon and maximise a rural support base by partnering with the leftist Jaffer Nimeiri regime, which had enjoyed a good following in the countryside.

It was this partnering with already established political entities that allowed “access” to the citizenry. Moreover, the increasing frustration that people had with the family-dominated political landscape in the form of the Mahdi and Mirghani families gave the NIF a sympathetic sounding board. In its early formation the NIF was seen to offer an opportunity to rise above the neo-patrimonialism that had characterised Sudanese politics since independence.⁷

On taking power through a military coup in 1989 the NIF banned all opposition parties, a move rescinded only in 1999 when the new law on political parties came in to force. This new law obliged political parties to register and included membership criteria and registration fees. Indeed one of the main contradictions of the “Islamisation” policy of the National Congress Party has been its ability to use religion as a mobilising force though not applying many of those “principles” to the ruling elite. This relates particularly to the largely discriminatory application of *Shariah*; as one analyst explained, “You must understand that there is no such thing as *Shariah* for the rich, it is only used to keep the masses in line” (pers. Comm., Khartoum, 3 April 2007).

The ruling clique’s symbiotic relationship with the oil and large-scale agricultural industries, added to its dominance over the security services, is the basis for its strength. In the final analysis, considerations of bottom-line economics far outweigh those of ideology. In addition, the boom currently experienced in Khartoum can be seen as evidence of the party’s economic sophistication, which penetrates most sectors, including the lucrative private banking industry. The financial superiority and dominance over the information and security sectors of the economy will continue to give the NCP an edge over what is essentially a fragmented Northern opposition.

In this context the use of Islamist rhetoric is used as an appeal to the domestic audience rather than being a true expression of foreign policy (as seen in the opposition to the UN in Darfur). The NCP’s close relations with the US Pentagon adds a particular twist to the international community’s stance towards the Sudanese authorities. In its need to produce results on the “war on terror” the Bush administration has sought the cooperation of the Sudanese intelligence and security services. Sudanese Intelligence Minister, Salah Abdallah ‘Gosh’’s numerous high-level visits to Washington should give some pause for thought, for it suggests that certain elements of the US administration are far more willing to see securocrats at the helm in Khartoum than ideologues such as opposition leader Hassen al Turabi. The disjuncture between the US State Department and the Senate over Sudan’s cooperation on the “war on terror” is also growing.

On the 5 May members of the Senate Intelligence Committee challenged a State Department report that characterised Sudan as “a strong partner on the war on terror” (Sudan Tribune 2007b). An analyst from the Congressional Research Service, Raphael Perl was quoted as saying that Sudan is “a damn good partner in the war on terror. They have cooperated on many, many issues”, and that the issue of whether Sudan should remain on the blacklist is a “political hot potato” that is separate from Darfur (Sudan Tribune 2007b).

Previously there was some room for distinction between what can very crudely be categorised as “hardliners” and “moderates” in the National Congress Party; this is no longer the case. Indeed, the coalescing of hardliners, consisting mainly of securocrats and those with close links to the oil industry,⁸ and the moderates, of

whom CPA negotiator Osman Ali Taha is most prominent, comes also as a result of the international community's megaphone approach to the Darfur question. Those likely to openly engage with the international community and who are supportive of the CPA find that they now have scant legitimacy within party ranks.

With a government enjoying a solid edge over the opposition, there is growing concern about the influence of secessionist rhetoric amongst the NCP membership. This group is largely associated with what is called the Just Peace Forum led by prominent NCP members who are calling for the immediate secession of the South. The forum also have the resources and capacity to fund the daily *Al-Intibaha* newspaper aimed at mobilising elites who feel marginalised by the Naivasha Agreement. The paper's motto is "the voice of the silent majority" suggesting that the majority of Northerners have been "silenced" to prevent them voicing their disagreement with the CPA. Indeed, the existence of the Just Peace Forum and the daily paper underpins what might initially seem contradictory messages from the NCP, but in the words of one veteran analyst can be characterised as the "division of roles" between the various arms of the ruling party. He argues that,

This is very pragmatic politics, what they are doing is to make secession seem like a victory. Tayeb Mustafa (the editor) is almost blackmailing the South by saying if you want to stay united you must come on our terms. But look at who is advertising in the paper, the Sudanese Central Bank, how is that supposed to be a national institution? (pers. comm., Khartoum, 26 March, 2007).

Ultimately, even though the NCP might be intellectually defeated, it remains in pole position through their dominance of the economy. "For all you might say about the NCP, they are well organised and manage to control all civilian initiatives. You could say that Sudanese politics is basically divided into 'corrupt' and 'honest' politicians rather than moderate and hardliners, because there is a majority of opposition to them even in the North" (pers. comm., Khartoum, 26 March 2007).

The SPLM are currently experiencing one of its most trying times since the signing of the CPA. Not only is it meant to work with a formidable and well-organised National Congress Party on the national stage, but must also negotiate the internal cohesion of an ethnically complex Southern Sudan, tasks for which it has little organisational capacity. The fissures between the NCP-SPLM Alliance were highlighted by the public spat between Vice President Salva Kiir and President Omar Al Bashir during the January 2007 celebrations marking the second anniversary since the signing of the Agreement. Notwithstanding the regular meetings of the Joint Leadership Committee, which aims to cement the partnership between the two, there has been little progress on test cases areas such as the demarcation of the Abyei boundary and transparency of oil reserves and receipts. Indeed, the question of Darfur has also strained the relationship between the two partners, who have distinctly different attitudes towards the idea of a UN-AU hybrid force.

Certainly the CPA is the basis for SPLM legitimacy and control of resources, making the implementation of the agreement a core priority for the party. Interviews with numerous analysts, academics and civil society organisations have suggested that the SPLM has failed to deliver the dividends of peace to war-weary Southern Sudanese. This is aggravated by the constant need to legitimate itself throughout the South, while resisting political pluralism. These factors are in addition to the increased allegations of SPLM corruption and the previously discussed question of payment for demobilisation.

The disjuncture between John Garang's "New Sudan" and the actual Southern orientation of the main actors within the SPLM suggests that there is little to unify the party behind a national vision. Having said this, it is evident that there is a growing pragmatism and a realisation that in order to make significant gains in the next election, it must project itself as a national rather than a Southern party. The SPLM Interim National Council met for the first time since the death of Dr Garang in February this year and reasserted a commitment to "making unity attractive". One of the watershed outcomes of the Yei meeting was the

decision to move the SPLM's national headquarters from Juba to Khartoum. This, together with recent statements from party leader Pagan Amum, suggests that the SPLM will have to make alliances with other disaffected Northern parties or constituencies to realise a majority in the national elections. This would also help to alleviate some of the dissatisfaction expressed by former Garang allies in the North who feel marginalised from the strong pro-secessionist element of the SPLM, including prominent Northern Sector members such as Abdel Aziz al Hilu and Khalid Mansour.

To practically implement a new national strategy, however, the SPLM will have to resolve its internal leadership frictions, which are influenced by the historical Dinka - Nuer antagonism. Indeed, large areas of the oil rich Jonglei and Unity states are Nuer strongholds, while the Malakal region of Jonglei is split between the Dinka and Shilluk tribes.

Riek Machar's role in Southern Sudan has been described as vital to allaying fears of Dinka domination. As a Nuer with a chameleon history of being part of the SPLM who broke away to form the SPLM/A-Nasir faction between 1991 and 1994, his flexibility can be both a strength and weakness for the SPLM. Moreover, his role as Commander in Chief of the SSDF in 1997 and his close relationship to President Bashir has added to the strategic importance of having Machar in the SPLM Kiir camp.

Machar's active involvement in trying to resolve the LRA question through the Juba talks has also won him some admiration from the Eastern Equatorians and has also helped him develop better relations with the former Equatorial Defence Force commanders.

Other SPLA members to watch in the interim period include Foreign Minister Lam Akol, Secretary General of the SPLM Pagan Amum (both of the Shilluk tribe), and Major-General Clement Wani Konga, Governor of Central Equatoria state. Clement Wani is a key personality in Central Equatorial politics, having previously commanded the Mundari militia based in Juba, and with a history of strong ties to the NCP he could be expected to exploit anti-Dinka sentiment in the largely Bari dominated area of Juba.

It is not clear how the SPLM is going to address the competing calls for South-South reconciliation with the fact that the CPA is essentially a bi-partisan agreement that has entrenched it as the hegemon of the South.

Some thirty months since the signing of the CPA there is little sign of confidence in its full implementation. This paper has focused on the challenges to the Security Arrangements as set out in the Agreement, arguing that the incorporation of Other Armed Groups, and the lack of confidence-building between units deployed to the Joint Integrated Units are among the most pressing threats to security.

It is evident that, aside from the technical military issues concerned, there remains the fundamental political challenge of creating a united Sudanese vision. There is scarce evidence of the political determination to create a national dialogue extending beyond party lines. Added to this is the problem of nepotism and corruption, which also threatens to exacerbate the popular frustration around the lack of peace dividends from the CPA.

At the time of writing it was announced that the SPLM would become more closely involved in the Darfur peace process through its Darfur Task Force. This is a welcome sign and also suggests that there is an acknowledgement of the urgency of resolving the Darfur crisis as it directly impacts upon the implementation of the CPA.

In essence, it is hoped that keen attention will be paid by the international community and the signatories to the Agreement to fulfil their obligations in what remains of the Interim Period.

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- 1 Mariam Bibi Jooma is a researcher with the Africa Security Analysis Programme at the Institute for Security Studies.
 - 2 Interview with oil security analyst, Juba 2007
 - 3 For a detailed discussion of the implementation of Abyei Protocol see Jooma 2006.
 - 4 Some concerns were raised by opposition parties regarding the controversial budget package that was eventually passed by a majority. It included
 - a) Excessive allocations to the central government (52%) at the expense of states;
 - b) Excessive allocations for defence and security matters. Salary allocations for “sovereignty” posts, including defence and security, account for 78% of the total salary budget; while the total budget for the security sector increased to 75 billion Sudanese dinars (approximately US\$375 million), compared to 14 bn SD (US\$7m) for education and 9.5bn (US\$4.75m) for health; (UNMIS 2006, 35).
 - 5 Six bomas make up one Payam (town).
 - 6 Representation of the North and the South at the National level shall be based on population ratio. The percentages herein are temporary and shall either be confirmed or adjusted on the basis of the census results, Comprehensive Peace Agreement, Chapter II, 1.8.8–1.8.9 2005. (CPA)
 - 7 See also Jooma 2007.
 - 8 Most notable amongst this group is Nafi Ali Nafi, current Presidential Advisor, Chief NCP negotiator on Darfur, and former Head of External Security Agency (1995).

Bibliography

CPA 2007. Comprehensive Peace Agreement between the Government of The Republic of the Sudan and The Sudan People’s Liberation Movement, Nairobi: Kenya, 9th January 2005.

Interim National Constitution 2005. Interim National Constitution of the Republic of the Sudan, 16 March 2005, available at <http://www.sudantribune.com>

Jooma 2006. M Jooma, Sudan: Eighteen Months after the CPA, Institute for Security Studies (ISS), 17 July 2006, <http://www.issafrica.org>

Jooma 2007. M Jooma, Looking East: The politics of peacemaking in the Beja region of Sudan, Institute for Security Studies (ISS), 12 January 2007, <http://www.issafrica.org>

Sudan Tribune 2007a. ‘SPLA soldiers kidnap senior militia office, loot money – UN,’ 7 May 2007, <http://www.sudantribune.com>

Sudan Tribune 2007b. ‘US report described Sudan as “strong partner” in War on Terrorism’, 7 May 2007, <http://www.sudantribune.com>

UN 2007a. United Nations Security Council (UNSC), Report of the Secretary General on the Sudan, S/2007/42, 25 January 2007.

UN 2007b. United Nations Security Council (UNSC), Report of the Secretary General on the Sudan, S/2007/213, 17 April 2007.

UNFPA 2007. United Nations Population Fund: Population Census Support Unit, 2006 Annual Census Report, February 2007.

UNMIS 2006. United Nations Mission in Sudan, CPA Monitor: Monthly Report on the implementation of the CPA, December 2006, <http://www.unmis.org>

Young 2007. J Young, Sudan People’s Liberation Army: Disarmament in Jonglei and its implications, Institute for Security Studies, Occasional Paper 137, April 2007.