



**Sudan's Next Great Democratic Challenge**

**Sudan Elections Analysis**

**Introduction Paper No. 1**

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## **Introduction**

In 2009, the Republic of Sudan is required to hold a series of elections as a core component of the Comprehensive Peace Agreement (CPA) signed in January 2005 by the Khartoum government in the North and the Sudan People's Liberation Movement/Army (SPLM/A) in the South. These elections include various local, regional, and national races; and are a pre-cursor to the referendum on Southern Independence scheduled to take place in 2011.

This is the first in a series of papers providing critical analysis with respect to these contests, examining the local, national, and international dynamics contributing to and resulting from the electoral process tentatively scheduled to take place in April 2010. This paper outlines a baseline risk assessment of the design and implementation of elections, as well as how they will impact the political and economic development of Sudan. Other papers in the series will discuss a variety of topics including political party and platform development; political actors; internal risk; and how international and regional players directly influence the potential outcome of the elections.

This paper's assessment demonstrates that although elections frequently feature as important benchmarks in post-conflict reconstruction, they incur significant challenges both in their design and impact. While international mediators of civil conflict remain mostly sanguine about elections, in Sudan, they are not likely to proceed smoothly and without serious threats to evolving democratic institutions as well as the internal security situation. Some of the main political actors have incentives to undermine or subvert the process altogether. In spite of this, elections are import for development and are the last major institutional step for the implementation of the CPA. Sudan will no doubt benefit from peaceful and legitimate elections, but obstacles remain. There is significant support that organizations can lend to elections to bolster their management, efficiency, and legitimacy.

## **Elections Strategy**

Elections in Sudan will require a complicated system through which voters with high degrees of illiteracy and little experience with democratic processes are asked to cast various ballots. All Sudanese citizens will be allowed to select a candidate for President of the Republic of Sudan, currently held by Omar al-Bashir; and Southerners will cast an additional ballot for President of the Government of South Sudan (GoSS), currently held by Salva Kiir Mayardit. If no candidate garners an absolute majority, a run-off must be held within two (2) months. They will also vote for governors in all 25 states, as well as members for the National Assembly, Southern Sudan Legislative Assembly, and State Legislative Assemblies. The various ballots, numbering up to 12 for Southerners, as well as the possibility of run-offs underscore the difficulty in implementing a streamlined electoral exercise.

### *Conditional Impacts*

The CPA's institutional lifetime is set to expire, to be replaced by permanent democratic institutions and practices making the elections an even more critical milestone. But contrary to viewing balloting as one event with a uniform impact in Sudan's state building and reconciliation, one should view the various races as a series of potential shifts in the political landscape that contribute to the much larger challenges of implementing the CPA. While initially successful, the CPA's implementation has incurred a number of challenges and a successful electoral process will help to legitimize its framework.

Under the CPA, the South's Salva Kiir serves as vice-president in a power-sharing arrangement with the North's al-Bashir. National elections will retire this consort and both sides will act to solidify their regional control and national influence. However, the legal status of the incumbent government is currently in doubt. Opposition parties in the north, including the Umma National Party and Umma Reform and Renewal Party, have argued that the legal mandate of the interim CPA government ran out in early July 2009, with no directive to continue given repeated delays in the elections' schedule. Because of various roadblocks to the establishment of electoral institutions and the dubious evaluation of the National census in 2009, they have been pushed back numerous times and are now scheduled for April 2010. Moreover, recent fighting in border areas between the North and South, hostilities within the South's political and ethnic parties and groups, and ongoing genocide in Darfur underscore the fragility of the CPA. It begs what paradigm shifts are likely during the next 9 months prior to the implementation of the April elections.

While Southerners anticipate the National referendum for independence in 2011—the local, regional, and national general elections preceding that in both the North and the South will impact how the referendum is designed, implemented, and perceived by both local and international actors. Although the SPLM/A under former rebel leader John Garang (who died in a 2005 plane crash) was initially more accommodating to North/South unity, Kiir is focused on an electoral process that may very well bring about Southern independence. Addressing various rallies in Kardofan and Abyei in July, Kiir continues to support Sudanese unity at least rhetorically but also believes the 2011 referendum is a necessary mechanism for democratic consolidation. He recently commented, "if the secession of southern Sudan will bring peace in Sudan, it is better that we let them go for referendum and we see what they will do."

Focusing more on the need to enhance infrastructure development in these oil rich border regions plagued by conflict also represents his commitment to affirming regional allegiances prior to elections and any referendum process. There is no point having a referendum for independence if the Southerners lose their greatest economic advantage and regional leverage; untapped oil reserves.

### *Political Power Plays*

This section discusses how elections will impact the political strategies employed by key parties and actors. Elections are likely to disturb the current balance of power in Sudan, and could

threaten existing political and economic interests. The political constellations of the North and the South present their own specific challenges, which underscore the costs and benefits associated with implementation of the CPA's tenants, specifically a National elections process. Political actors, whether Northern or Southern, are unlikely to facilitate implementation of elections that reduce individual power bases without significant manipulations. This in turn will trigger violent protest, a trend that is already on the rise.

Because the general elections serve as a stepping stone to the subsequent referendum, the North remains largely disinterested with CPA implementation past April 2010. Since most Southerners support independence, this regional breach would deprive the North of further access to untapped oil fields in the South and potential revenues. This impending referendum may encourage the North to return to war.

Besides oil, the North has other considerations regarding the status of its current President and its own political legitimacy with the international community. At present, there is no serious candidate opposing President al-Bashir. But it is likely that the ruling National Congress Party (NCP) will certainly lose legislative seats with a credible challenge from Al-Sadiq al-Mahdi's Umma party. Umma has already held negotiations with the main Darfuri party, the Justice and Equality Movement (JEM), threatening NCP hegemony. Last year's census give the three states within the Darfur region approximately 20% of the seats in the National Assembly. While the practical design and implementation of free and fair balloting in Darfur remains a contentious issue, Darfuris are unlikely to support a regime they view as responsible for mass genocide.

Despite challenges created by the ICC indictment and a consolidating opposition, Bashir is a political survivor with 20 years in office and has used the arrest warrant to rally support around Sudanese sovereignty. The African Union's (AU) recent decision to say they "have no stance" on the indictment increase his platform that the West has unfairly targeted him. He demonstrated his initial stand against the international community with a swift and immediate revocation of licenses for 10 international NGOs, primarily providing critical humanitarian support in Darfur. He will no doubt continue to leverage his incumbency to quash opposition demonstrated by previous arrests of Mubarrak al-Mahdi in 2007 and Hassan al-Turabi in January 2009.

Bashir's regime is likely to support the elections process as long as those elections legitimize the NCP's hold on power with backing from the political right and integration of Sharia compliancy. While Bashir represents a dominant risk factor, problems in the South and the 2009 census may represent a larger obstacle to the implementation of a successful election and a national referendum in 2011. The census impacts the election in three ways.

First, a robust census is required for the successful organization and management of the April 2010 races, outlining everything from the registration of voters to the distribution of polling centers. It remains unclear whether the perceived lack of the census' legitimacy will compel a formal challenge from the South's SPLM/A forcing further alterations and concessions from by the Sudanese electoral board.

Second and locally, all ten (10) state governors in the South are currently appointed to their positions as former warlords from within the ranks of the SPLM/A. These governors control access to both government and donor resources. Without more concrete parameters within the elections process, these actors may attempt to subvert local democratic processes to maintain their current control.

Third, the 2009 census significantly reduces the South's share of the national legislature, signaling that the North may not be a credible partner in electoral management. The current power-sharing agreement allows the South approximately one-third of the seats in the National Assembly, but the new census estimates the South's population at only 21% of the total Republic, which could reduce its participation to below the 25% threshold necessary to block constitutional amendments. If the South accepts the census results and current distribution of parliamentary constituencies, it will effectively become an irrelevant political force following the April 2010 round. A Northern dominated legislature could use this to significantly impact the administration of the referendum, or block it altogether. Given that the 2011 referendum could be derailed by the April 2010 hurdle, the South remains nervous about proceeding in these uncharted waters, even if it desires full implementation of the CPA.

Taken together, both the 2010 general elections and 2011 referendum pose a set of challenges to incumbent political interests in both the North and the South. The inherent weakness of the census results originally mandated in the CPA demonstrates the fragility of its practical mechanisms. Electoral processes are likely to present greater flashpoints that may hinder the consolidation of peace and transition to democracy as outlined in the existing agreement. But before new democratic processes can take root, there will be more immediate effects on the physical and economic security of Sudan's population.

### **Critical Risk Analysis**

This fragility produces important implications for the Sudanese population, particularly with respect to security and development, overviewed in this section. Even though elections seem like the natural progression in Sudan's democratic transition, they may actually serve to undermine the process of state building through the continued use of strategically motivated violence. There is already evidence that actors on all sides are working to undermine this political process creating confusion within political ranks.

While the South's SPLM/A appears to present a united political front against the North, the region suffers from various political divisions and renewed bouts of violence. The SPLM/A continues to fracture, with various splinter groups like Lam Ajawin's SPLM-DC. These factions represent the growing conflict among and between various political and ethnic groups cultivating a 'winner-take-all' backdrop to future campaigns. In March-April 2009 in Jonglei, about 1,000 southerners were killed in inter-ethnic skirmishes. The SPLM/A appeared unable to stop it fueled by division within both political and military leadership.

A successful general election supports the political legitimacy of the SPLM/A both locally and with regional and international stakeholders as its bids for independence in 2011. However,

continued violence and a lack of security will undermine these efforts. If the South continues to suffer violence preceding (and potentially following) national elections, it is unlikely the implementation of CPA will continue towards implementation of the referendum with either the necessary political or financial support.

Since the CPA was signed in 2005, on-going violence has continued to plague the peace process, particularly with respect to border areas between the North and South. Fighting between the SPLA and Northern Sudan Armed Forces (SAF) erupted again in May 2008 in Abyei. With an estimated oil wealth of half a billion dollars, international observers view this region as the biggest threat to the 2005 peace agreement. An international arbitration board in The Hague decided Abyei's fate in August determining that it should remain in the North's control. But whether or not the region will remain allied with the North is a different question. Simultaneously, tensions continue to escalate in the states of Kardofan and Blue Nile. Animosity over resources and political representation continues to heighten with little or no allegiance to either the NCP or the SPLM/A. Eventual escalation could force more direct confrontations between North and South as each enhances military expenditures and physical capacity. While the North continues to purchase weapons systems from China, the South has been linked to an arms shipment on the MV Faina of AK-47s and tanks blatantly disregarding the tenants of the CPA. If regional stability continues to deteriorate, it will make the deployment of polling stations and elections monitoring impossible, if the CPA is derailed because of widespread political violence, the immediate impact not just be on the CPA and a national referendum in 2011 but will also include political and economic ramifications.

#### *Political and Economic Impacts*

These factors have important political and economic implications across local, regional, national levels and international circles. Western countries continue to vacillate between engagement as encouraged by CPA implementation and elections; and condemnations regarding the diplomatic issues of Darfur and the ICC. Most recently, President Obama's envoy to Sudan, Scott Gration has backed down from using the word "genocide" to describe the current state in Darfur as a means of developing a "carrots and sticks" approach to Khartoum. The more hawkish Susan Rice, Obama's UN ambassador, continues to her bellicose discourse on Sudan including no fly zones, a policy Obama endorsed during his campaign.

Elections will encourage both foreign and local investment by institutionalizing democratic practice and creating a baseline for the rule of law, a signal to governments and commercial investors when and where it is safe to invest. Adversely, it seems the North continues to attract new investment while the South languishes under lack of perceived legitimacy and foreign direct investment.

Except in Darfur and border areas, the North continues to attract major investment, particularly from the Middle East and Asia. These governments and investors, most notably China, are experienced in financing infrastructure, particularly in large-scale agricultural development. Khartoum has experienced a real estate boom in recent years attracting Qatari, Emirati, and Malaysian investors, among others. But Sudan has also leased one-third of its arable agriculture

land to Middle East investors who export 70% of what is grown while Darfur has the world's largest food aid budget of more than \$1 billion USD per annum.

The North is happy to secure investment from governments not subject to US economic sanctions. Sanctions have done little to discourage Bashir's consolidation of power or internal security policies in Darfur. Sanctions also mean that the US and Western allies are losing ground against Middle East and Asian investors who have not taken the time to fully understand US sanctions and the "exemptions" granted both the southern states, Darfur and Abyei. Given the mounting American debt held by China as well as its rising position as a global superpower, the US has been reluctant to lobby the Chinese to divest from Sudan or audit its sanctions to include China for its export of Sudan's oil reserves and continued investment into the Bashir government.

While the North continues to prosper, the South faces its own economic challenges and opportunities. Because it is land-locked with underdeveloped road and air infrastructure, it has little access to international trade routes. It receives most of its goods through neighboring Kenya and Uganda, neither of which is politically stable. Kenya put East Africa into an economic tailspin for the early months of 2008 after its own disputed election; Uganda faces a presidential election in 2011 that may also prove contentious and violent. After another round of short rains and decreased productivity in 2009, Kenya and Tanzania imposed a trade ban on all grain exports and Uganda's parliament is currently trying to block food exports to South Sudan to undercut domestic food shortages. East Africa's internal food shortages could have a devastating impact on the stability of the Southern states that have developed little if any internal cereal production.

South Sudan continues to lack political legitimacy in international circles, and highly localized contracting and property rights (reliant upon warlords) continue to deter would-be investors. Because elections may bring new actors to power who could easily renege on pre-electoral contracts, commercial investors are highly risk averse to the Southern regions. Without transparent and accountable government institutions driven by a free and fair electoral process, equity investors from the US and Europe will remain risk averse to large-scale ventures.

While elections encompass a variety of risk factors, they are an important step towards attracting investment and promoting economic growth. The political and economic security of the population is intimately related; and neither is likely to thrive without successful elections.

## **An Unsteady Outlook**

### *Electoral Management*

Even given the risks and challenges discussed above, elections are important signals of political efficacy for Sudan's transition from conflict to democracy. But for legitimacy, the population must view them as mechanisms of democratic accountability. Towards that end, a number of challenges face electoral administrators and political parties. These are not insurmountable, but require strategic planning and coordination in three key areas.

First, the parties to the elections agreements must abide by them and work to keep violence to a minimum. This does not just include the CPA itself, but all of the subsequent electoral laws and rules that are necessary for voting. Parties on all sides may strategically employ violence to mobilize or discourage turnout. Inter and intra party conflict is already a prevalent risk issue and could easily escalate. To avoid this, conflict resolution training should be deployed and increased population protection is required by the government in the North and SPLM/A in the South in the run-up election day.

Second, voter and civic education is mandatory in a post-conflict setting without a tradition of open elections as well as a history of rampant human rights abuses and gender subjugation. While local and international organizations have begun programming towards this end ahead of April 2010, the country lacks important baseline indicators regarding the knowledge of its citizens of political and electoral processes, levels of engagement, and the issues they find important and want parties to focus on. This baseline activity would require public opinion polling to help guide the development of political platforms.

Third, international and local actors must work to assist the management of elections to ensure transparency at all stages, including registration, polling, and the final electoral count. While international actors are financially equipped to support and monitor these elections even in the difficult context of Sudan, mobilization and coordination are needed for effective planning and practical action. These actors can assist with everything from working with parties to build political platforms to voter education and registration processes.

While all this seems like a straight forward process, the international community still lacks a uniform standard on which to determine whether contests are free and fair, or for the policies to enact if elections are judged to be faulty. If elections do prove contentious and violent, the implications for local security and development are not encouraging for the remaining implementation of the CPA and transition towards democracy in Sudan.