

# CPA ALERT

## The State of Sudan's Comprehensive Peace Agreement

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IKV Pax Christi works for peace, reconciliation and justice in the world. We join with people in conflict areas to work on a peaceful and democratic society. We enlist the aid of people in the Netherlands who, like IKV Pax Christi, want to work for political solutions to crises and armed conflicts. IKV Pax Christi combines knowledge, energy and people to attain one single objective: there must be peace!



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## Preface

In this second CPA alert, IKV Pax Christi wishes to sound the alarm bells on the Sudanese peace process, which has reached its final and decisive stage. The implementation of the CPA, the only available instrument to avoid return to war and achieve a transition towards a more democratic and peaceful Sudan, is under severe time pressure. However, policy makers still seem to underestimate the urgency of the historic moment to come: the referendum on the future of Sudan early 2011.

As this report states, the holding of a free and fair referendum is the centerpiece of the CPA and must therefore be the over-riding priority of policy making and enactment for all stakeholders, including the Sudanese governments, political parties and civil society, and the international community.

Especially the guarantors of the CPA, including the European Union, United Nations, the Netherlands, Norway, United Kingdom and the United States, should increase their efforts to make this referendum to be

held freely and fairly, as failure of the referendum is not an option. Also, they should prepare for what to do after the referendum. Are scenarios thought out well enough? If the referendum results in secession of the South, will they recognize the new state and are they ready to support Southern authorities to become effective, accountable and respectful for the rule of law? Last but not least, are they fully prepared to deal with tensions around Blue Nile, Abyei and Nuba Mountains, which are increasing as the ending of the transition period comes closer?

With this report, we do not pretend to have all the answers. What we do want is to make sure that international diplomats, policy officers and analysts will share the sense of urgency that civil society organisations and churches in Sudan share with us. Let's make sure we will not be surprised again by developments that we could have foreseen.

Jan Gruiters  
Director IKV Pax Christi

## Introduction and background

*“This is a historic period in the history of Sudan. After the referendum in 2011 Sudan will never be the same again, whether it remains united or becomes two countries. Time is short and urgent reflection and action are needed to ensure a peaceful future. This is Sudan’s Kairos Moment. It is time to choose life. We have no time to waste.”<sup>1</sup>*

It is worth recalling the root causes of the conflicts in Sudan:

- Sudan is a multi-cultural, multi-ethnic, multi-religious, multi-lingual country. However in practice, at least since independence in 1956, one identity, Arab-Islam, has dominated, imposing itself on others and making them feel like second-class citizens in their own country.
- Governance in Sudan is highly centralised, leading to a centre-periphery dynamic where peripheral areas and their people feel marginalised at every level – power, wealth, resources, development, etc.

These two factors are not unique to the current National Congress Party (NCP) regime in Khartoum. They have occurred under all northern governments and parties, whether democratic or military, Islamist or Islamic. While the NCP is certainly a bad case, the basic problem is the northern political establishment and political elite. Regime change is not the answer. Since 2005 other parties, including the Sudan People’s Liberation Movement (SPLM), have been participating as minority parties in the Khartoum-based Government of National Unity (GONU), but have had virtually no power nor influence on GONU, which has remained tightly controlled by NCP.<sup>2</sup>

Oil was not one of the root causes of the conflicts but has become a major factor in recent years.

The Comprehensive Peace Agreement (CPA), signed in 2005, brought an end to the oldest of the military conflicts in Sudan, the southern civil war, which had raged in two phases from 1955-1972 and 1983-2005. The CPA did not end the southern conflict, but rather moved it from the military to the political sphere, which was a great achievement. In that regard it is effectively a cease-fire which set up a framework or roadmap leading to a final peace in 2011 at the end of

a six year Interim Period; it did not settle the issues, merely created space for the two parties to continue to address them.<sup>3</sup> It did not attempt to resolve the Darfur conflict. It was an agreement between only two of the warring parties, excluding all other political parties and military factions, north and south, as well as civil society. It was signed under intense diplomatic pressure by Khartoum, leading many southerners to recall the phrase “too many agreements dishonoured”<sup>4</sup> and to wonder whether this one would actually be honoured by the north.

*“The CPA has brought some progress. The conflict between south and north was moved from the military to the political arena. Space was created, after the fighting ceased, for development projects to go ahead in the south and the marginalised areas of Abyei, Nuba Mountains (which is in Southern Kordofan State) and Blue Nile. There have been attempts to address the Millennium Development Goals, particularly in the areas of health and education. Reconstruction and rehabilitation have taken place in many war-afflicted areas. A system of governance has been put in place in these areas which, while still new and fragile, is making great progress. Increased oil revenue has become available to both north and south. There is freedom of movement. There is an increased awareness of human rights. Elections have been held peacefully, although not perfectly.*

*However, war continues in Darfur. Islam continues to be the source of legislation in the north, which adversely affects the rights of all, particularly non-Muslims. The human rights climate is deteriorating again. A number of oppressive laws, including the National Security Act, have not been repealed or brought in line with the new Interim Constitution. The powers of the national security organs, characterised by torture, intimidation and detention without trial, have not been curtailed.”<sup>5</sup>*

Much of the CPA covered the arrangements for the Interim Period: power-sharing, wealth-sharing, security. However for many southerners the central provision of the CPA is a referendum to be held in 2011 in which southerners will “confirm the unity of the Sudan by voting to adopt the system of government

<sup>1</sup> *Choose Life: A Vision for a Peaceful Sudan*, SCC, 5 May 2010

<sup>2</sup> John Ashworth, *CPA Alert No 1*, IKV Pax Christi, September 2009, p14

<sup>3</sup> Alan Goulty, 4 November 2009, <http://blogs.sssrc.org/sudan/2009/10/23/not-comprehensive/>

<sup>4</sup> Abel Alier, *Southern Sudan: Too Many Agreements Dishonored*, 1992

<sup>5</sup> *A future full of hope*, SCBC, 22 July 2010

established under the Peace Agreement; or to vote for secession”.<sup>6</sup> Incidentally, many are unaware that one of the exceptions to the ‘current system’ is that in the event of unity a single national army will be formed from both the southern Sudan People’s Liberation Army (SPLA) and the northern Sudan Armed Forces (SAF).<sup>7</sup> The parties agreed to “Design and implement the Peace Agreement so as to make the unity of the Sudan an attractive option especially to the people of South Sudan.”<sup>8</sup>

The Sudanese Catholic bishops believe that: “If unity is an option, we must understand what kind of unity we are speaking of. It must be a unity embracing all, in a just, free and open society, where the human dignity of every citizen is safeguarded and respected... A unity which binds and oppresses, prohibits all opposition, a unity which imposes uniformity and condemns those who differ in faith and culture must be rejected. All indications are that unity has not been made attractive to the people of southern Sudan. At the same time, the root causes of the conflicts have not been addressed.”<sup>9</sup>

The Southern Sudan Youth Forum for Referendum (SSYFR) has articulated the sentiments felt by many in the south: “We, the Southern Sudanese have already decided to vote for an independent Southern Sudan where we will live as first class citizen. We continue to be oppressed everywhere in Sudan and those calling for unity of Sudan have not done anything to make unity attractive.”[...] “Our brothers in the North have done little to make unity attractive[...]” [...] “those calling for a united Sudan are not ‘sincere’ [...] those calling for unity have failed to address the critical issues that led to the war between the North and South.[...]” “It’s important that we critically look at the issues that brought fighting among ourselves. Even if Southern Sudanese vote for a united Sudan now, that does not really solve the problems of the Sudan. We will still go back to war. We did not go to war because of money and availing money for unity will not convince Southerners to vote for unity.”<sup>10</sup>

It is indeed clear that unity has not been made attractive to the people of southern Sudan. It would be extremely difficult for the NCP to have done so, as the sort of changes needed to address the root causes of the conflict would undermine its own identity and power-base. It would have needed major changes to

the northern political establishment and system, and southerners would have needed to see those changes being implemented, not just promised – ‘too many agreements dishonoured’.

Apart from concerns about Islamisation and Arabisation in the whole of Sudan, failure to reform the National Intelligence and Security Service remains a key stumbling block to unity.

*“The 2010 National Security Act was passed by the National Assembly in December 2009 and came into force in February 2010. However, the new Act does nothing to ensure that detainees held by the NISS are not deprived of judicial review and other human rights guarantees. It maintains the extensive powers of arrest and detention that were given to the NISS under the 1999 National Security Forces Act. It also maintains the immunity from prosecution and disciplinary action that was granted to NISS members under the earlier law. The 2010 National Security Act fails to introduce the necessary guarantees to prevent arbitrary detentions, torture and other ill-treatment, and maintains the culture of impunity for these violations. It remains faithful to the government’s vision of the national security force as a body whose function is to maintain it in power, including by repressing the legitimate exercise of freedom of expression.”<sup>11</sup>*

Now time is short. Realistically speaking there is nothing that anyone can do in the remaining few months to make unity attractive. The President of Southern Sudan, Salva Kiir, recently said: “Those who want unity should double their efforts to do in six months what they should have done in the last five years.”<sup>12</sup> He also once again recalled the words of the late Dr. John Garang: that anyone is free to vote to become a second class citizen in their own country.<sup>13</sup> The Vice President of the Government of Southern Sudan, Dr. Riek Machar Teny, said the upcoming referendum means independence of the South as far as public opinion is concerned.<sup>14</sup>

Sudan is in an historic period, the end-phase of the CPA, the last few months before a momentous decision is due to be made which is likely to change the face of the nation.

<sup>6</sup> Machakos Protocol, 2.5

<sup>7</sup> CPA, Security Arrangements, Chapter VI, 1a

<sup>8</sup> Machakos Protocol, 1.5.5

<sup>9</sup> *A future full of hope*, SCBC, 22 July 2010

<sup>10</sup> *Referendum Youth group defends Southern Sudanese quest for separation*, Sudan Tribune, 9 August 2010

<sup>11</sup> *Agents of Fear: the National Security Service in Sudan*, Amnesty International, 2010

<sup>12</sup> *Sudan’s Kiir says those wanting North-South unity should double their efforts*, Sudan Tribune, 20 June 2010

<sup>13</sup> President Salva Kiir, comments during Mass at St Theresa’s Cathedral, Katuor, Juba, 19 July 2010

<sup>14</sup> *People of South Sudan equate referendum to independence*, VP, Sudan Tribune, 7 July 2010

## Referendum

The Southern Sudan Referendum Act 2009 was passed only in December 2009. This has put the entire referendum process behind schedule. The Southern Sudan Referendum Commission has barely begun its work. A dispute over who should be the secretary general of the commission was resolved at the end of August 2010 when SPLM conceded that both the chairman and the secretary general could be northerners.<sup>15</sup> SPLM secretary-general Yasir Arman said that, “*The secretary-general is not the issue, having the referendum on time is.*”<sup>16</sup> Demarcation of the north-south borders is not complete. Regulations and procedures for the referendum have not been provided. Members of the State High Committees were only announced in mid-August 2010.<sup>17</sup> Sub-Committees and Referendum Centres have not been established in the states. Voter eligibility is still unclear and registration has not begun. Registers and other referendum materials have not been provided. Voter awareness and education has barely begun, and indeed cannot proceed without clarification of some of the above issues.

Secession can be chosen by a simple majority of 50% plus one of votes cast.<sup>18</sup> However there is also a requirement that 60% of registered voters must cast their vote in order for secession to take place. “*If this threshold was not reached, the referendum shall be repeated under the same conditions within sixty days from the declaration of the final results*”<sup>19</sup>. If it again fails to meet this threshold, the status quo (unity) continues. While a 60% turn-out is not impossible, it may be difficult due to logistics and other constraints. This condition is not well-understood by southerners and could lead to unrest if the simple majority is reached but secession is not achieved due to less than 60% of registered voters turning out.

It is also an easy target for rigging the referendum. Rigging the simple majority would be extremely difficult, as all indications are that a huge majority of voters will choose secession. However the 60% quorum

would be easier to rig. One tactic would be to make it difficult for registered voters to turn out, due to insecurity, transport and other problems. During the elections in April 2010 many voters found it difficult to cast their vote due to incomplete lists, lists being sent to the wrong polling stations, and other bureaucratic and logistical issues. These could conceivably be deliberately exacerbated in the referendum. The Sudanese Catholic bishops have urged “*all citizens who register, to ensure that they actually cast their vote.*”<sup>20</sup>

The registration of southern Sudanese voters residing outside southern Sudan presents real problems in establishing voter eligibility and monitoring the legitimacy of the process. Eligibility of voters in the south will be relatively easy to establish, as they can be identified by chiefs, elders, church leaders, etc. This will be far more difficult for voters registering in the north or at Sudanese embassies overseas. The Sudan Embassy in Washington highlights: “*the impossibility of hitting the 60% rate of voting necessary for effecting South Sudan Secession via the upcoming self-determination referendum.*”<sup>21</sup> The southern Referendum Taskforce has said it will take steps to organise southern Sudanese living in the diaspora.<sup>22</sup> At the same time there are credible reports of northerners settling in the south and Abyei before the referendum<sup>23</sup> which, if they were to be registered as voters, could affect the result.

All of the above suggests a need for strong international monitoring, as provided for in the CPA.<sup>24</sup> Unofficial English translations of the referendum act (it has proved extremely difficult to obtain an official translation, which is consistent with the general lack of dissemination of any documents connected with the CPA over the last 5 years and is ironic as the act has a whole chapter on ‘Information rules and guarantees’<sup>25</sup>) caused some confusion when the Arabic word *muraqib* was translated only as ‘observer’ and not as ‘monitor’. However it can have both meanings,

<sup>15</sup> SPLM concedes position of the referendum body SG, Sudan Tribune, 23 August 2010

<sup>16</sup> US envoy Gration brokered breakthrough in referendum body deadlock, sources, Sudan Tribune, 24 August 2010

<sup>17</sup> State level referendum committees members appointed across south, Sudan Tribune, 19 August 2010

<sup>18</sup> Southern Sudan Referendum Act 2009, 41.3

<sup>19</sup> Southern Sudan Referendum Act 2009, 41.2

<sup>20</sup> A future full of hope, SCBC, 22 July 2010

<sup>21</sup> Sudan Embassy, Washington, 10 August 2010, <http://www.sudanembassy.org/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=1167&cntnt01returnid=15>

<sup>22</sup> South Sudan Taskforce to organize voters in the Diaspora for referendum, Sudan Tribune, 23 August 2010

<sup>23</sup> Private conversations and personal observations

<sup>24</sup> Machakos Protocol, 2.5

<sup>25</sup> Southern Sudan Referendum Act 2009, Chapter 5



and it will be up to domestic and international groups to ascertain whether the powers of the ‘observers’ outlined in no 62 of the referendum act meet the requirements of the CPA. Observers will have the right to enter the referendum centres “at any time during the polling process” (36.5) but “shall not interfere with the duties of the referendum officials or speak to any voter during her/his presence in the polling centre” (36.6). The chief of a referendum centre may expel observers (36.7).

*“We urge international and domestic monitors to pay close attention to the registration process from the beginning, and particularly to the registration of those living outside southern Sudan.”<sup>26</sup>*

During the elections held in April 2010, a number of lessons were learned. The UN assisted with logistics in the elections, but GOSS would like UN to play a leading role in logistical, technical and operational issues during the upcoming referendum<sup>27</sup>. UN has experience of organising referenda in other countries (eg East Timor).

Tarek Osman Al-Tahir, a member of the referendum commission, has requested a delay in the referendum, saying that it would be impossible for the commission to achieve the completion of voters’ registration three months before the vote as required by the law. *“We have only two choices left: skip some of the procedures, which would be unacceptable because it could affect the endorsement of the referendum result or resort to the other choice of a limited delay to the referendum timetable to complete these procedures”<sup>28</sup>*. In response, SPLM’s Pagan Amum has stated that *“the hopes and expectations of the people of south Sudan are so pinned on that date that it would be dangerous to postpone it because the level of frustration and disappointment would be so high for anybody to manage... I am afraid there may be elements within the referendum commission that are actually planning a postponement, or in the worst case a total betrayal [of the right] to be exercised by the people of southern Sudan.”<sup>29</sup>* Interestingly the Arab League and Egypt have called for the referendum to be held on time and without delay.<sup>30</sup>

Any delay in the referendum proposed by the NCP is likely to cause great suspicion and, potentially, unrest and violence. However if the UN or some other credible international body were to take over the implementation of the referendum, there is a scenario where, after achieving some of the milestones in the process, they may be able to demonstrate credibly that a short delay is required to put in place the final elements of the referendum. In this case the delay must be explained clearly and transparently. What cannot be accepted are deliberate delays due to political manoeuvring, such as the disputes which continue within the referendum commission.<sup>31</sup>

<sup>26</sup> A future full of hope, SCBC, 22 July 2010

<sup>27</sup> Kosti Manibe, comments to SCBC, Juba, July 2010

<sup>28</sup> Referendum body says no intention to ask for delay of January vote, Sudan Tribune, 11 August 2010

<sup>29</sup> South Sudan referendum at risk over commission standoff says SPLM, Sudan Tribune, 13 August 2010

<sup>30</sup> Arab League urges holding South Sudan referendum on time, Sudan Tribune, 25 August 2010

<sup>31</sup> Sudan’s referendum body chief threatens to resign, Sudan Tribune, 16 August 2010

## The transitional areas

The ‘residents of the Abyei Area’ also have a referendum to choose (i) to “*retain its special administrative status in the north*” or (ii) “*that Abyei Area becomes part of Bahr El Ghazal in Southern Sudan*”.<sup>32</sup> Borders and voter eligibility have officially been agreed, but there remain currents of dissatisfaction amongst other groups in the area which could derail the process. The presidential adviser for security affairs and former director-general of Sudan’s National Intelligence and Security Services (NISS), Salah Gosh, has said that the ruling made by the Hague-based Permanent Court of Arbitration to redefine the boundaries of the oil-rich region of Abyei “*did not resolve the dispute and was not adequate or fulfilling to the needs of both sides*.”<sup>33</sup> Abyei has already experienced outbreaks of violence<sup>34</sup>.

The Abyei Area Referendum Act was only passed at the end of 2009. It does not appear to include a 60% turnout condition. The Abyei Referendum Commission has not yet been formed. SPLM “*has threatened to devolve the responsibility of implementing the Abyei referendum to the area’s local administration if the standoff over the appointment of the area’s referendum commission continues*.”<sup>35</sup>

Deng Arop, the head of Abyei’s administration, complained the nomadic Missiriya tribe, some of whom were used by the north as a militia to fight the SPLM, had begun to settle 75,000 people in the north of Abyei to change the demographic of the region and influence the vote... “*The aim is ... at the very least to influence the referendum with large numbers or, if they are told they don’t have the right to vote, then they will derail the referendum*.”<sup>36</sup>

Residents of Abyei feel intimidated. The government is accused of deploying SAF, hostile militia and riot police.<sup>37</sup> People complain that northern security forces

and Missiriya surround them, and that the Egyptian UNMIS peacekeeping forces appear to be on very close terms with them. The fact that the Egyptians broadcast the Muslim call to prayer via loudspeakers is also very intimidating for Dinka residents<sup>38</sup>, and highlights the problems caused by UNMIS deploying Arab and Muslim troops who, after a war in which ethnicity and religion played a large role, are perceived as the ‘enemy’ by the very people they are supposed to be protecting.

The people of the Nuba Mountains (in Southern Kordofan State) and Blue Nile State do not have the right of self-determination, despite the fact that many feel culturally and ethnically connected to the south and fought alongside southerners in the liberation struggle. The Regulation of Popular Consultation to Southern Sudan and Blue Nile States Bill 2009 also came late and an official English translation does not appear to be available. One anonymous analyst described it as “*threadbare in its details*”<sup>39</sup>. These two states have a form of popular consultation which has still not been clearly understood, and which appears to give the final decision to legislators and, where it “*does not meet the aspirations of the people*”<sup>40</sup>, to the Presidency rather than directly to the people. The popular consultation mechanisms are already well behind schedule in the Nuba Mountains (Southern Kordofan), where a state legislature has not yet been formed due to disagreements about the census and elections.

The Church Leaders’ Forum expressed its concern: “*... that popular consultation does not meet the aspirations of the people of Southern Kordofan and Blue Nile. The issue must be put at the top of all stakeholders’ agendas as a matter of priority. Their special situation requires special status. The Church fears that failure to address the aspirations of the people of these two states could derail any peaceful post-2010 transition*.”<sup>41</sup>

Popular consultation, even if free and fair, will not meet the aspirations of a large section of the population of these two areas, as they have no choice

<sup>32</sup> Abyei Area Referendum Act 2009, 4 and 6

<sup>33</sup> Sudan’s security adviser says PCA ruling on Abyei “*did not resolve dispute*”, Sudan Tribune, 1 August 2010

<sup>34</sup> Clashes in Sudan’s Abyei drive away hundreds of inhabitants, Sudan Tribune, 15 July 2010

<sup>35</sup> SPLM threatens to conduct Abyei referendum through local administration, Sudan Tribune, 23 August 2010

<sup>36</sup> Deadlock in dispute over Sudan’s Abyei oil region, Reuters, 1 August 2010

<sup>37</sup> Position Paper of the Abyei Civil Society, Abyei Civil Society Referendum Forum, Khartoum, 18 August 2010

<sup>38</sup> Private conversation with Abyei resident, Juba, July 2010

<sup>39</sup> Popular Consultations Act 2009, description [sic] and brief analysis, anonymous, 2010

<sup>40</sup> Regulation of Popular Consultation to Southern Sudan and Blue Nile States Bill 2009, 17.2

<sup>41</sup> A Vision for a Peaceful Sudan, Sudanese Church Leaders’ Forum, Juba, 23-26 March 2010

but to remain under northern governance<sup>42</sup>, including Islamic shari'a. Both the Sudan Council of Churches<sup>43</sup> and the Sudan Catholic Bishops' Conference<sup>44</sup> have also pointed out that this could lead to unrest unless a way can be found to meet the aspirations of the people.

On the other hand, there are significant communities within these areas who do not seek to join the south. "While preferring unity for Sudan, we respect the right of the people of Southern Sudan to decide their future in the upcoming referendum... We nevertheless recognize existing problems like unequal development and provision of services among citizens of the two states, the failure to fully remove military forces from civilian areas, and incomplete power-sharing among political actors."<sup>45</sup>

Amongst those who prefer unity, some are communities which support Khartoum, but others are SPLM.<sup>46</sup> They fear that without the south they will face a hostile northern regime alone and unsupported.<sup>47</sup> The international community must take these fears seriously.

This leads to a difficult dilemma for those who seek peace. On the one hand, popular consultation as agreed in the CPA does not appear to meet the aspirations of many (but not all) of the people in Southern Kordofan and Blue Nile. On the other hand, the impetus has always been for the full implementation of the CPA, and calling for a change in the CPA is dangerous. In general any renegotiation of the CPA would be in the interests of the NCP, and would almost certainly lead to a suspension of all aspects of the CPA, including the referendum, during a renegotiation process that could take years.

Another option would be to address the concerns of the Nuba Mountains and Blue Nile as part of the post-referendum arrangements.<sup>48</sup> However there are dangers with this. Due to poor dissemination of the CPA, many people in these two areas believed that they have a referendum and are only gradually beginning

to realise that they don't, so leaving their concerns until after the referendum could lead to instability and unrest. "We are especially concerned about the fact that many people within our communities remain poorly informed about the content of the CPA."<sup>49</sup> For the same reasons that southerners do not find unity attractive, they too will never trust a Khartoum government to make the necessary changes in the north for them to live in freedom, equality and justice. They want to join the south, and this is something that the NCP cannot concede, as it could set a precedent for general disintegration of northern Sudan. When the Darfur conflict began, secession was never on the agenda, but recently has emerged as an option for at least one of the liberation movements.<sup>50</sup>

Nevertheless, it must be pointed out that failure to address the aspirations of the people of Abyei, the Nuba Mountains or Blue Nile could lead to unrest and eventually armed insurgency in those areas. This would almost certainly spread to other areas - Darfur, the south and even the eastern front. Southerners would feel drawn to supporting their brothers and sisters in these areas, which includes of course senior and well-connected SPLA commanders, whether openly or clandestinely, with or without official backing from GOSS. One could envisage a scenario where the south secedes peacefully, but is drawn back into full-scale civil war breaks by an outbreak of conflict in the transitional areas.

<sup>42</sup> *The people of Nuba and Darfur demand self-determination*, Sudan Tribune, 15 August 2010

<sup>43</sup> *Choose Life: A Vision for a Peaceful Sudan*, SCC, 5 May 2010

<sup>44</sup> *A future full of hope*, SCBC, 22 July 2010

<sup>45</sup> Joint Blue Nile and Southern Kordofan People's Forum, Kosti, 5-7 August 2010

<sup>46</sup> *SPLM's Agar says he is a unionist, warns against secessionist tendencies*, Sudan Tribune, 4 May 2010

<sup>47</sup> Private conversations with individuals from the two states from 2004 until the present day

<sup>48</sup> Kosti Manibe, comments to SCBC, Juba, July 2010

<sup>49</sup> Blue Nile Peoples' Forum, Damaziin, 17-19 May 2010

<sup>50</sup> *Self-determination emerging as an option for Darfur*: JEM, Sudan Tribune, 4 August 2010

## Post-referendum arrangements

### Citizenship

Southerners have a great many fears about what will happen after secession. The worst case scenario is a return to war, but the situation of southerners and of the Church in northern Sudan also raises fears. Many of them may try to return to the south around the time of the referendum, due to intimidation and threats. Many of the southerners employed by one large diocese in the north have indicated that they intend to resign by December 2010 and return to the south.<sup>51</sup> There are fears of large scale migrations, either voluntary<sup>52</sup> or, worse still, enforced. This could well lead to a humanitarian emergency, and a number of NGOs are gearing up for this eventuality. Will southerners who remain in the north after secession remain citizens of the new northern state, or will they be aliens, needing visas to remain? Will there be freedom of religion for both the southerners resident in the north and the northern indigenous Christians (eg Nuba, Uduk, and the various eastern churches)? Will the north continue to enforce both oppressive religious laws and the current national security laws? The situation for northerners residing in the south is likely to be less parlous, as there is no history of oppression towards them, although there may be some resentment against those who are perceived to have settled in the south recently in order to affect the outcome of the referendum.

Southerners have a long tradition of migrating to the north for work and education, as well as during times of war and famine. The north needs southern labour. Thus it is unlikely that the north will expel southerners en masse. However conditions may well become more restrictive for them, in terms of both security and religion.

Churches in the north may also find themselves facing more oppressive times. *“It is possible that the government will adopt strict Islamic rule in the north under which the Church will suffer severely,”* says Rev Ramadan Chan, Secretary General of the Sudan Council of Churches. *“Even now, we are not finding it easy to operate there. So after*

*secession, it will even be harder.”*<sup>53</sup> However church leaders say they have survived oppression before and will survive it again.<sup>54</sup> It is likely that major churches and the council of churches will remain united across the new national border; there is ample precedent for this (eg the Southern African Catholic Bishops’ Conference covers three countries; a single Anglican diocese in North Africa covers many countries).

### Good neighbours

It is not in the interests of either side to have instability after secession. *“In interactions with the leaders of the two parties [NCP & SPLM], we have advised that separation should not be considered a divorce, and that in the case of a vote for separation, maintaining close linkages between the South and the North is in the interest of both”*, according to UNMIS chief Haile Menkerios.<sup>55</sup> Mechanisms have been set up to begin to negotiate on key ‘clusters’ (Citizenship; Security; Financial, economic and natural resources; International Treaties and Legal Issues)<sup>56</sup>, albeit very late in the day. While *“The parties shall discuss ways of involving civil society organizations and the Sudanese community at large, in the process”*<sup>57</sup>, there is no formal process for this and churches fear that civil society will not be adequately involved: *“We are concerned at the late establishment of these structures, and the absence of Church, civil society and other actors, which could lead to a lack of transparency and inclusiveness.”*<sup>58</sup> Sudan will be assisted in this process by the African Union High Level Implementation Panel (AUHIP), chaired by Thabo Mbeki.

### Oil

An agreement on oil revenues is one of the most urgent. Most of the oil is in the south, but the pipeline is in the north. Oil is no use to the south unless it

<sup>51</sup> Conversations with southerners living in the north, Juba, June-July 2010

<sup>52</sup> *South Sudan plans return of 1.5 million for referendum*, AFP, 24 August 2010

<sup>53</sup> *After referendum, Sudan church leaders want protection*, Ecumenical News International, 7 July 2010

<sup>54</sup> Private conversations with Catholic bishops, Juba, July 2010

<sup>55</sup> *Sudan warns countries on voicing support for independence of the South*, Sudan Tribune, 15 June 2010

<sup>56</sup> MEKELLE MEMORANDUM OF UNDERSTANDING BETWEEN THE NCP AND SPLM ON POST-REFERENDUM ISSUES AND ARRANGEMENTS, 23 June 2010, no 2.1

<sup>57</sup> MEKELLE MEMORANDUM OF UNDERSTANDING BETWEEN THE NCP AND SPLM ON POST-REFERENDUM ISSUES AND ARRANGEMENTS, 23 June 2010, no 4

<sup>58</sup> *A future full of hope*, SCBC, 22 July 2010

can be exported and sold, and for this the northern pipeline is essential, especially in the light of recent reports that a pipeline to Kenya is uneconomical in the foreseeable future.<sup>59</sup> Both parties need oil revenue, and it is not in the interests of anyone to have two bankrupt neighbours becoming more and more unstable.

### Borders

Demarcation of the north-south border is another key issue. Much of the debate is on the border around Abyei. The agreed boundaries of Abyei leave the Heglig oil field in the north rather than in Abyei. However southerners believe Heglig is in the south proper. A quick glance at maps produced in Khartoum since 1956 shows that the north-south border appears to creep southwards, particularly since the discovery of oil in the 1970s, and southerners believe this must be rectified.

It is unlikely that the border demarcation will be completed in the time remaining.<sup>60</sup> This has been used by NCP as an excuse to delay the referendum, warning that “[...]in case there was no specific clear border line between north and south that such situation might lead for eruption of new war.”<sup>61</sup> Southerners disagree with NCP<sup>62,63,64</sup> According to Vice President Riek Machar, the issue of the borders between Northern and Southern Sudan should not be looked at as barriers because it can harm the needed future economic cooperation between the two would-be separate and independent countries.<sup>65</sup> Both parties have apparently now agreed that the referendum will be held on time.<sup>66</sup>

### The Nile water

Currently north and south are not in dispute over the River Nile. However it is an issue which needs to be on

the post-referendum agenda more in terms of Egypt's dispute, supported by Khartoum, with the other Nile Basin states.

### Transition

Southerners may need to accept that the *process* of secession may take time and that a transition period may be needed in order to implement all the practical aspects of separation. This must be explained very clearly and transparently in order to avoid suspicion, misunderstanding, confusion, unrest and potential violence, and it must be very clear that the *decision* in favour of secession is non-negotiable during this transition period.

### Humanitarian needs

Whatever happens, under any scenario, war or peace, unity or secession, there will be need for humanitarian support.<sup>67,68</sup>

<sup>59</sup> South Sudan Kenya pipeline is “uneconomical” says oil minister, Sudan Tribune, 5 July 2010

<sup>60</sup> North-South border demarcation ‘impossible’ to complete before referendum: official, Sudan Tribune, 27 July 2010

<sup>61</sup> NCP Insists for Completing Demarcation of Boundaries before Referendum, Sudan Media Centre, 29 July 2010

<sup>62</sup> South Sudan's Kiir says referendum must take place with or without borders, Sudan Tribune, 1 August 2010

<sup>63</sup> Referendum can be conducted without demarcated borders – Machar, Sudan Tribune, 10 June 2010

<sup>64</sup> Sudan's Deputy Speaker says no obstacles to timely conduct of referendum, Sudan Tribune, 8 August

<sup>65</sup> North-South borders as ‘barriers’ can harm future cooperation – Machar, Sudan Tribune, 17 June 2010

<sup>66</sup> NCP-SPLM agree to hold referendum as scheduled despite disagreements over borders, Abyei, Sudan Tribune, 4 August 2010

<sup>67</sup> SUDAN: Referendum will increase humanitarian needs, UN IRIN, 19 August 2010

<sup>68</sup> South Sudan would face humanitarian crisis after referendum – minister, Sudan Tribune, 20 August 2010

## Unilateral Declaration of Independence (UDI)

Without doubt UDI would be a bad option. Negative consequences of UDI include the lack of agreement between north and south about post-secession arrangements and the possibility of war. Former World Council of Churches general secretary Reverend Dr. Samuel Kobia says: “A UDI is the last thing the churches will want to see. It must be avoided at any cost.”<sup>69</sup>

There is unclarity as to whether GOSS is considering this as a possible course of action in case the referendum is cancelled, delayed or blatantly rigged. President Salva Kiir says “no”<sup>70</sup>, Vice President Riek Machar says “possibly”, while conceding that it would be “uncomfortable”.<sup>71</sup>

There is a great deal of public support for the option. Many southern intellectuals argue that if the referendum does not take place, there is no constitutional basis for governing the country after the CPA ends on 9<sup>th</sup> July 2011. However the south does have a democratically elected parliament, the South Sudan Legislative Assembly, and they would be entitled to declare the south independent.

The international community would find it very difficult but not impossible to recognise a new southern state formed via UDI. The recent recognition that Kosovo’s secession was legal<sup>72</sup> must be seen as a positive precedent for southerners, although obviously no two situations are exactly alike. Privately, international diplomats are suggesting that they might be able to recognise southern Sudan’s independence if it was very clear that UDI was a last resort, forced upon the south by northern intransigence after the south had exhausted all legal means, but they would find it difficult to do so if it seems as if the south were actively preparing for UDI in advance.<sup>73</sup>

Nevertheless, the possibility of UDI remains on the radar of many southerners who distrust the north. Their concerns do not seem far-fetched. When GONU minister Awad Ahmed al Jaz says that North-South separation “cannot be allowed under any circumstances”<sup>74</sup>, it was no slip of the tongue. He is one of the NCP’s key leaders.<sup>75</sup> First Vice President Ali Osman Taha adds: “All the experiences of secession in the African continent was doomed to fail; in Ethiopia, Eritrea and the Congo.”<sup>76</sup> Even “a limited delay to the referendum timetable to complete the procedures”, limited to no more than six months, as suggested by a northern member of the referendum commission<sup>77,78</sup>, will raise suspicions in the south. “Any attempt to delay the referendum would be considered as renegeing on the CPA...”<sup>79</sup>

<sup>69</sup> Southern Sudan UDI, last thing churches would want, says Kobia, Ecumenical News International, 19 August 2010

<sup>70</sup> Kiir rules out south declaring independence unilaterally, Sudan Tribune, 1 August 2010

<sup>71</sup> South Sudan UDI can be “uncomfortable” option – Machar, Sudan Tribune, 24 July 2010

<sup>72</sup> Kosovo breakaway from Serbia was legal, world court rules, Guardian, 22 July 2010

<sup>73</sup> Private conversations, 2010

<sup>74</sup> VP Taha says South Sudan independence will cause conflicts, disintegration, Sudan Tribune, 2 August 2010

<sup>75</sup> Under no circumstances, Africa Confidential, 06 August 2010, Vol 51 No 16

<sup>76</sup> VP Taha says South Sudan independence will cause conflicts, disintegration, Sudan Tribune, 2 August 2010

<sup>77</sup> Commission wants to delay south Sudan independence vote, AFP, 8 August 2010

<sup>78</sup> Commissioner seeks delay in S. Sudan independence vote, Reuters, 7 August 2010

<sup>79</sup> SPLM moves quickly to dismiss referendum postponement reports, Sudan Tribune, 9 August 2010

## The failed state argument

An argument advanced by opponents of secession, both in the north and in the international community, is that southern Sudan cannot become a viable state.<sup>80</sup> It can't govern itself, its government can't provide security for its people, and generally it will become a failed state. This fallacious argument needs to be countered robustly.

Southern Sudan has only existed with the trappings of government for 5 years. While GOSS is still weak and suffers from a number of challenges, it is amazing how much progress has been made in such a short time. Government is functioning, with ministers and ministries, a civil service and an elected parliament. Corruption and nepotism exist, but are not at a level which paralyses government, and there is every hope that they will be controlled as more robust systems are put in place: *"We trust that they will change."*<sup>81</sup> African countries will support and build the capacity of the new government.<sup>82</sup> Despite challenges in certain areas, security is good enough for most people in southern Sudan to go about their daily lives relatively normally. Infrastructure is being rehabilitated and development is taking place, albeit more slowly than many would wish. There is a big difference between a young and weak state which is getting stronger, and a failed state.

In practice southern Sudan is already functioning as an autonomous state. All internal matters are handled by GOSS, without any assistance from the north (and indeed some would argue that Khartoum is undermining the south). It is not clear what 'value added' the south is supposedly receiving from the north which will be removed when the south secedes. In fact there will be no change on the ground, so if the south is not a failed state now there is no reason to suppose it will become one after secession.

Concentration on the south as a potential failed state draws attention away from the north. While it is unlikely that the north will become a failed state, nevertheless the centre-periphery dynamic leads to a number of challenges. Already there is a civil war in Darfur. The Nuba Mountains, Blue Nile and the eastern front continue to simmer, and tensions exist in the far north. If more of these erupt into open conflict, or if the strong centralised political establishment begins to crack, then actually northern Sudan is a better candidate for a failed state than the south. Some of the classic failed states (Yugoslavia, Somalia, Zaire/DRC) had strong centralised governments until the fall of their totalitarian regimes.

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<sup>80</sup> VP Biden says US working to avoid 'failed state' in Sudan, Sudan Tribune, 19 July 2010

<sup>81</sup> Private comment by a Catholic bishop, Juba, July 2010

<sup>82</sup> South Sudan to deploy 200 highly qualified civil servants from foreign countries, Sudan Tribune, 15 August 2010

## South-South violence

Conflict between ethnic groups and political factions in southern Sudan is not a new phenomenon. However 2009 saw a drastic escalation in the level of violence, both qualitatively and quantitatively. Local tensions were exacerbated by certain southern political and military leaders, and there were strong suspicions that northern interests were manipulating the situation.<sup>83</sup> Violence has continued in 2010. Although it is difficult to quantify, it appears to be at a slightly lower level than 2009, in part due to security measures implemented by GOSS, as well as interventions by Church and civil society. In 2010 it was reported that there were more deaths in the south than in Darfur; in 2010 the violence in Darfur appears to have intensified again.<sup>84,85</sup>

The elections in April 2010 passed without serious violence. Most defeated candidates and their supporters accepted the results. One significant exception is General George Athor Deng, who has fought against SPLA in Jonglei and Upper Nile.<sup>86</sup> His excuse that Governor Kuol Manyang was unfairly elected is rather disingenuous, as Kuol Manyang is generally reckoned to be a popular and effective governor, and there is little doubt that he was elected fairly. Athor's name was connected with Dinka-Dinka conflict around Khor Fuluss from early 2009<sup>87</sup>, long before the elections became an issue. One or two other commanders are said to have joined the rebellion, eg former Police Colonel Gatluak Gai in Unity state and David Yauyau in Pibor County of Jonglei state.<sup>88</sup> While this insurrection was initially hyped as 'an imminent comprehensive war'<sup>89</sup>, it is now at a low level, and churches are involved in peace efforts.<sup>90</sup> SPLM has accused "quarters in northern Sudan of supporting the

*renegade general in order to destabilize the south*" after impounding a Khartoum-bound helicopter allegedly carrying Athor's supporters<sup>91</sup>, strengthening long-standing southern suspicions that the NCP has a hand in manipulating south-south violence.

Lord's Resistance Army (LRA) activity continues in Western Equatoria. It has been confined to a relatively low level, in part due to the activities of a local self-defence group known as the 'arrow boys'. Local communities do not perceive official security forces as being very effective. Churches are involved in mediation. IKV Pax Christi organised a conference in Kisangani in February 2010 bringing together Church leaders from LRA-affected regions of Uganda, Sudan, DRC and Central African Republic<sup>92</sup>, and a follow up meeting was held in Yambio in September 2010.

Whatever happens after the referendum, whether unity or secession, low level violence between communities is likely to continue, and needs to be addressed. Churches have begun a new incarnation of the successful People to People Peace and Reconciliation Process, which played a major role in resolving Dinka-Nuer conflict in the late 1990s and reconciling the leaders of the two largest military factions in the early 2000s. A Church Leaders' Forum was held in Juba in March 2010, at which "*The Sudan Church undertakes... to roll out a new People to People Process of dialogue to counter internal conflicts in the south, the marginalised areas and other parts of Sudan.*"<sup>93</sup> A meeting bringing Church and government together will be held in September 2010 (dubbed 'Kajiko 2' after the historic meeting between the Church and SPLM which was held in Kajiko in July 1997). After that there will be a series of meetings for dialogue at the grassroots level, as well as higher-level encounters.

<sup>83</sup> John Ashworth, *CPA Alert No 1*, IKV Pax Christi, September 2009

<sup>84</sup> *Over 200 deaths due to armed conflict in Darfur in June*, Sudan Tribune, 12 July 2010

<sup>85</sup> Eric Reeves, *QUANTIFYING GENOCIDE: Darfur Mortality Update*, 6 August 2010

<sup>86</sup> *Defeated candidate launches destructive attack on South Sudan army in Jonglei*, Sudan Tribune, 1 May 2010

<sup>87</sup> Private conversations, Malakal, throughout 2009

<sup>88</sup> *General Athor says none of his soldiers were captured by SPLA*, Sudan Tribune, 19 June 2010

<sup>89</sup> *Athor demands cancellation of election results, dissolution of South Sudan govt*, Sudan Tribune, 14 May 2010

<sup>90</sup> E-mail from church leader, 3 August 2010

<sup>91</sup> *South Sudan captures Khartoum-bound helicopter with rebels on board*, Sudan Tribune, 11 August 2010

<sup>92</sup> International Conference of Religious Leaders on the Issue of the LRA, Kisangani, 2-4 February 2010

<sup>93</sup> *A Vision for a Peaceful Sudan*, Sudanese Church Leaders' Forum, Juba, 23-26 March 2010



*“As the referendum approaches, it will be important for the South to develop a stronger sense of cohesion and common purpose given the uncertain and unprecedented environment following the vote. Productively engaging the opposition (armed and unarmed), incorporating marginalized ethnic and tribal groups into power structures, decentralizing authority, more equitably sharing resources, and refraining from supporting armed opposition against rivals are important principles for both parties to adhere to in any recipe for peace and stability.”<sup>94</sup>*

However it has also been pointed out that much of the violence is more about resources than ethnicity and division.<sup>95</sup> Development, provision of basic services, education and a decrease in the levels of poverty will help to reduce conflict.

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<sup>94</sup> *Scenarios for Sudan’s Future, Revisited*, USIP, 28 July 2010

<sup>95</sup> *SPLA: no tribalism in south Sudan just resource wars*, Sudan Tribune, 14 August 2010

## Post-secession unity?

*“The idea of a confederation has floated in the past during North-South peace negotiations but has quickly died. The confederation model entails a system where two countries achieve a high degree of autonomy while maintaining a minimal central authority in areas such as trade, defence and foreign policy.”*<sup>96</sup>

During the IGAD talks prior to the signing of the CPA, confederation was discussed. In 2000 it could be said that “official SPLM/A preference [was] for a united confederal New Sudan”, albeit “not shared by many southerners, even inside the movement.”<sup>97</sup> At the time there was talk of “one country, two systems.”<sup>98</sup> Dr. John Garang expressed his support for confederation as late as mid-2002.<sup>99</sup> However it did not appear in the CPA, as NCP was against it at that time, but it has resurfaced periodically. In January 2008 and again in January 2010 SPLM’s Blue Nile Governor Malik Agar said the only path for unity is to apply confederation between north and south, and better structures of decentralisation<sup>100, 101</sup>, while in March 2010 Egyptian foreign minister Ahmed Aboul-Gheit suggested that Cairo wants Sudan to consider the option of a confederation rather than separation.<sup>102</sup> One of the larger Darfur liberation movements, JEM, expressed an interest in north-south confederation in 2009: “Confederation is a system of administration in which two independent countries enter into while keeping their separate identities. The countries cede some of their powers to a central authority in areas where they share common economic, security, or broadly speaking, developmental concerns. The central authority in confederation is weak and subservient to the founding states. It cannot dominate and can only exercise powers that are ceded to it by the con-federal

*partners... either of the partners can pull out of it if they so wish.”*<sup>103</sup>

Thabo Mbeki, as Chair of the African Union High Level Implementation Panel (AUHIP), has recently reflected on post-referendum options: “Southern Sudan has been intricately linked to the larger entity of the Sudanese nation, and Southern Sudanese have been closely involved in building the common Sudanese national patrimony. In the event of secession, Northern and Southern Sudan would not be ordinary neighbours, but would be neighbours with generations of a shared history – people who have attended the same universities, worked in the same institutions, danced to the same music...In this respect we suggest that the positioning of the two phenomena of unity and secession within a paradigm based on the notion of polarity would be overly simplistic and seek to entrench an antagonistic relationship.”<sup>104</sup>

Mbeki then goes on to present four possible options rather than the two enshrined in the CPA:

- “two independent countries with no durable links... the pure separatist outcome.”
- “two independent countries existing within a broad and negotiated framework of cooperation.”
- “two independent countries which negotiate a framework of cooperation, which extends to the establishment of shared governance institutions in a confederal arrangement.”
- unity - “one country with a federal arrangement between North and South.”

At this point it would be dangerous to re-introduce confederation into the process, as it is not part of the CPA and could cause confusion and instability, and Mbeki concedes that: “The people of Southern Sudan have the right to make the fundamental choice between unity and secession.” But Mbeki is concerned about the future responsibilities of the two governments, and the implication is that two independent states could later make decisions about their relationship which could include confederation. This seems to gel with JEM’s proposal. “Confederation ensuring two independent

<sup>96</sup> Egypt hints at supporting a North-South confederation for Sudan rather than separation, Sudan Tribune, 22 March 2010

<sup>97</sup> John Ashworth, *Five Years of Sudan Focal Point Briefings*, 2004, p40

<sup>98</sup> John Ashworth, *Five Years of Sudan Focal Point Briefings*, 2004, p88

<sup>99</sup> John Ashworth, *Five Years of Sudan Focal Point Briefings*, 2004, p93

<sup>100</sup> North Sudan ruling party says ready to discuss confederation with SPLM, Sudan Tribune, 14 January 2008

<sup>101</sup> NCP, SPLM officials exchange blame over inevitable separation of the South, Sudan Tribune, 11 January 2010

<sup>102</sup> Egypt hints at supporting a North-South confederation for Sudan rather than separation, Sudan Tribune, 22 March 2010

<sup>103</sup> Abdullahi Osman el Tom, *Towards Confederation between Independent South and North Sudan*, 2009

<sup>104</sup> All Mbeki’s quotes from STATEMENT OF THE CHAIRPERSON OF THE AUHIP, THABO MBEKI, AT THE LAUNCH OF THE SUDAN POST-REFERENDUM NEGOTIATIONS, Khartoum, 10 July 2010.

*and sovereign Sudans, North and South is the answer... this confederation is contingent on successful passage of the CPA and amicable separation of Sudan into two independent countries. It is a project whereby both countries choose to enter and exit out of their own accord.”<sup>105</sup>*

At the moment southerners do not want to hear talk of anything but secession. However the possibility that an independent South Sudan may one day in the future want to form a confederation on equal terms should not be ruled out.

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<sup>105</sup> Abdullahi Osman el Tom, *Towards Confederation between Independent South and North Sudan*, 2009

## The next war

Many would agree with Sudanese Foreign Minister Ali Karti: *“If we don’t agree on the results of the referendum, this could cause a new war between northern and southern Sudan... It will be a difficult and tough war, different from the previous one because both sides are better equipped militarily.”*<sup>106</sup> The head of the referendum commission goes further and warns that the referendum *“may well lead to war”* if the south secedes.<sup>107</sup>

Little has changed militarily in the last year since IKV Pax Christi gave some detailed indications of what the next war will look like.<sup>108</sup> It will be worse than the two previous civil wars. Both sides are still mobilising and re-arming. The war will probably start along the border, as a conventional war, with insurgencies in the south (LRA and some of the disaffected groups) and also the north (Nuba Mountains, Blue Nile); or it may begin in the Nuba Mountains, Blue Nile and/or Abyei and quickly spread. It will spread to other marginalised areas, drawing in first Darfur and possibly the Eastern Front, as well as the transitional areas. Southerners will take this war to the north.

SPLA has now publicly confirmed that its air force will be operational by the time of the referendum<sup>109</sup>, while denying that it has recently bought aircraft.<sup>110</sup> The SPLA force in the JIU in Khartoum will fight. A priest recently recalled a conversation with his relative who is in that contingent: *“Abuna [Father], we know we are on a suicide mission. We know what we have to do...”*<sup>111</sup>

It must be avoided.

<sup>106</sup> *Sudan may witness new war if parties disagree over referendum results – minister*, Sudan Tribune, 16 June 2010

<sup>107</sup> *Southern Sudan Secession Vote May Lead to War, Official Says*, Bloomberg, 23 August 2010

<sup>108</sup> John Ashworth, *CPA Alert No 1*, IKV Pax Christi, September 2009

<sup>109</sup> *Southern Sudan to Have Air Force by End of Year, Army Says*, Bloomberg, 4 June 2010

<sup>110</sup> *SPLA denies buying military aircrafts*, Sudan Tribune, 23 August 2010

<sup>111</sup> Private conversation, Juba, July 2010

## Recommendations and conclusions

On the basis of the foregoing analysis we present the following recommendations and conclusions to advocates, stakeholders and especially the donor community, guarantors of the CPA and the members of the Assessment and Evaluation Commission (AEC):

- The referenda and popular consultations must take place on time; must be free, fair and credible; and must be *seen* to be so. The two CPA signatories must be held accountable for this, but particular attention must be paid to the NCP, which has been responsible for most of the delays so far.
- If a *short* delay in holding the referendum is demanded for *genuine* practical reasons after a credible number of milestones in the process have been achieved, it must be verified by international bodies as well as both CPA signatories. The referendum cannot be delayed by one party alone. Any such delay must be explained clearly and the new time-frame must be honoured, ie no further delays.
- The UN (and/or other appropriate international bodies) must play a leading role in technical, operational and logistical implementation of the referenda and popular consultations, and must be given freedom and responsibility to do so.
- International and domestic monitors and observers must be given the freedom to do their job fully.
- Particular attention must be paid to the possibility of rigging the southern referendum result via the 60% turn-out condition. The registration process, the eligibility of voters and the ability of voters to cast their votes on polling day must all be closely monitored. Every southern Sudanese citizen who registers must be encouraged and facilitated actually to cast her/his vote.
- Talk of confederation must not be allowed to confuse the referendum, which is only about unity or separation. However confederation on equal terms between two independent states may be a future aspiration, but only after the outcome of the referendum has been fully respected first.
- In the pre-referendum stage, third states, especially the guarantors to the CPA, should announce that they are prepared to recognise the new state if the referendum results in a yes to secession.
- Negotiations on post-referendum arrangements must be encouraged and speeded up.
- The possibility that a transition period may be needed between an eventual *irrevocable decision* for the south to secede and the practical arrangements

for secession needs to be explored with great precision and clarity in order to avoid suspicion and misunderstanding which can lead to instability.

- The international donor community should be prepared to support a state building scenario in the south if the referendum results in secession.
- The scenario of southern Sudan becoming a potential failed state should not lead the international community to discard the possibility of southern independence but prepare themselves for supporting the new state to become effective, accountable and realising the rule of law.
- If the south declares independence unilaterally as a last resort following NCP intransigence, the international community must quickly recognise the new state.
- A creative solution must be found to meet the aspirations of all communities in Southern Kordofan and Blue Nile states, even if it means going beyond the CPA.
- Now that the international community has rightly turned its attention to the CPA, it is necessary to remind it not to forget Darfur, where violence has escalated now that it is out of the public eye.

## Glossary of abbreviations

AEC	Assessment and Evaluation Commission
AU	African Union
CPA	Comprehensive Peace Agreement
ECS	Episcopal Church of Sudan
GONU	Government of National Unity
GOSS	Government of Southern Sudan
ICC	International Criminal Court
IGAD	Inter-Governmental Authority on Development
JIU	Joint Integrated Unit
LRA	Lord's Resistance Army
MDTF	Multi-Donor Trust Fund
NCP	National Congress Party
NGO	Non-Governmental Organisation
OAG	Other Armed Group
PDF	Popular Defence Force
SAF	Sudan Armed Forces
SCC	Sudan Council of Churches
SLA	Sudan Liberation Army
SPLM/A	Sudan People's Liberation Movement/Army
UN	United Nations
UNMIS	UN Mission in Sudan





**IKV PAX  
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