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Prospects for Peace in Sudan: May 2010

Overview

1. This memorandum covers the post-electoral situation in Sudan and the prospects and opportunities for effective AU engagement.
2. The immediate aftermath of the election has taken most observers and participants by surprise. Very few expected to be in the situation of such a comprehensive NCP victory and its complete domination of the political scene. Forming a government is likely to be slow, for both technical/legal and political reasons.
3. The NCP secured electoral triumph through vastly superior organization and financing, and a political culture in which voters preferred candidates seen to be close to the seat of power and patronage. Party managers took no chances and organized in pursuit of a political monopoly. Their position is strengthened. Those in the party who wished for a more inclusive governing coalition are at a loss as to how they can proceed.
4. The SPLM conducted a clumsy election and has to face two major internal challenges in its aftermath. One is reconciliation and consolidation within the south and the second is handling the northern sector, which took sharply divergent positions during the campaign. The NCP-SPLM partnership, which looked shaky at various points during the campaign, emerged strong at the end of the election.
5. The opposition in northern Sudan is demoralized and fragmented. Its leaders will insist that the results are fraudulent and illegitimate, and their complaints will be amplified in the international NGO echo chamber. The election demonstrated the opposition's political incompetence. However, popular sentiments of exclusion and frustration should not be ignored.
6. Election observer missions are likely to conclude that the integrity of the electoral process cannot properly be evaluated due to technical shortcomings, especially in the voters' register and the counting and processing of results. Such a finding might have serious implications for the organization of the referenda and openings for one or other party to challenge any results.
7. CPA implementation is now the priority for the parties and internationals. A strong NCP-SPLM partnership is essential for this and that appears to be on the cards. However, time remains very short for dealing with formidable technical and political challenges on key issues including the border, the referenda commissions, the Popular Consultations in Blue Nile and South Kordofan, and core post-referenda issues.

8. The post-election situation in Darfur requires careful assessment. The peace process will require reconfiguration as an inclusive political process, with a broader agenda, in order to achieve resolution before the referenda campaigns begin in November.

9. Regional and international coordination on electoral issues has been good, providing an excellent foundation for AU/UN strategic harmonization, to form the basis for a series of extended partnerships to include the neighbouring countries, IGAD, LAS, the P5, EU, Norway and others.

The Election and its Aftermath

10. The election in northern Sudan was equally a victory for the NCP's organizational machine and a verdict on the opposition's failure to seize its opportunities. In northern Sudan, the electoral arithmetic is approximately 15m people of voting age, of whom 11.5m registered. The 3.5m unregistered include many opposition supporters. Of the 11.5m, the NCP estimates that there were 5m NCP members, 4m sympathetic to the opposition, and the remainder undecided. This arithmetic shows that the opposition had a good chance at all levels. At the presidential level, given the nationwide vote (with another 4.5m voters in southern Sudan) and the two-round system, President Bashir could have faced serious challenge. The opposition failure to register its voters and then its subsequent failure to turn them out contributed to a landslide, as much as the NCP's organizational capabilities.

11. The opposition, and much of the public, has been in a state of shock since the trend in the results became clear. Anecdotes of fraud are circulating. Some polling station results are, *prima facie*, so improbable, that they lend credence to opposition allegations. There are also numerous accounts of vote-buying and payments to opposition candidates to contest, including substantial cash payments to the sectarian parties. Public confidence in the National Election Commission is low.

12. The logic of voters' choice in many areas appears to have been that they will vote for the candidate who is closest to the seat of power, and therefore most likely to deliver services, jobs and development to the constituency. In that sense, the election resembles the 'competitive clientelism' of elections in many Arab countries, that tend to return conservative outcomes.

13. Paradoxically, the elections in the south have been both clumsy (with very visible examples of intimidation and fraud during the campaign, the vote and the count), and more genuinely competitive. The State High Election Commissions have not performed well.

14. Forming a government is likely to be slow, for both technical/legal and political reasons. Due to technical problems with counting and processing votes, the final election results will take some days. According to Constitution, the President must be sworn in in front of both the National Assembly and the Council of States. The Council of States can be constituted only when the 25 State Legislative Assemblies have met and chosen their representatives in the Council. In the interim, however, it is possible for the President and First Vice President/President of GoSS to form a caretaker administration.

The NCP

15. The NCP secured electoral triumph through vastly superior organization and financing in comparison to all others. Faced with the possibility that the President might be forced into a second round, party managers took no chances. In addition, many candidates were selected on the basis of party loyalty over local support, putting a premium on party organization and financing. The outcome has been not only a near-monopoly by the NCP, but also that those who designed and pursued the mobilization strategy are strengthened. In particular, this strengthens the hand of Nafie Ali Nafie. His position is that the NCP has won a political monopoly through its own efforts and does not need to share power.

16. Others in the party, such as Ghazi Salah el Din and Ibrahim Gandour, expected that the NCP would emerge as the dominant partner in a national coalition. This would have had the benefits that the President was able to broaden his support base, and gain wider legitimacy for his very difficult position as being the head of state who presides over self-determination in southern Sudan and the probable partition of the country. The members of group are now at a loss as to how they can proceed, as the potential partners in such a coalition (DUP and Umma) are humiliated, angry and likely to reject any offers. The NCP may choose to being nonpartisan technocrats into government and may also offer positions to the leaders of the Darfur armed groups. The SPLM will be well represented.

17. The NCP leadership is likely to make a major effort to ‘make unity attractive,’ very late in the day. This requirement, as well as the need to move ahead with CPA implementation, will push the NCP leadership to set up a functioning government quickly, with minimal negotiation.

18. The NCP looks set to establish itself as a hegemonic party, on the model of states such as Egypt and Syria, for the foreseeable future.

The SPLM

19. The SPLM has won the elections in southern Sudan but with many questions about the integrity of the electoral process, and its internal political divisions on public display. While the campaign served the important process of requiring and enabling the leadership to reconnect with the grassroots, the aftermath will post sharp political challenges to President Salva Kiir.

20. One challenge is reconciliation and consolidation within the south. President Salva has indicated that he is ready to welcome independent candidates back into the fold and to work with other parties in southern Sudan (with the exception of the SPLM-DC of Lam Akol). However, the SPLM as a party can sometimes respond poorly to central directives that do not align with the individual interests of its middle ranks.

21. A second challenge is handling the SPLM Northern Sector, including Secretary General Pagan Amum and the (withdrawn) presidential candidate Yasir Arman. The SPLM-NS very publicly took a divergent position in favour of a boycott, and did not accurately represent the position taken by the SPLM Chairman. Arman is also unhappy at what he sees as a failure by the

SPLM leadership to support his candidacy and campaign. Both Amum and Arman face a difficult choice and it is hard to see how they can maintain their current positions.

22. The NCP-SPLM partnership, which looked shaky at various points during the campaign, emerged strong at the end of the election, confirmed by Pres. Salva's statement that he had cast his vote in the presidential ballot for Omar al Bashir. The fact that the gubernatorial contest in Blue Nile was decided in favour of the SPLM candidate, Malik Agar, on a recount, has cemented this.

23. In the coming year, the SPLM will probably have to manage the transition to two parties, one in southern and one in northern Sudan. Currently, Blue Nile and South Kordofan, while in northern Sudan, are in the SPLM-Southern Sector. The most probably scenario is that they will be transferred to a revamped Northern Sector, which they will dominate.

The Northern Opposition

24. The dismal performance of the opposition parties in northern Sudan surprised critics and supporters alike. These parties were condemned to electoral humiliation by their failure to register their supporters. Several of them realized this early on, and consequently their strategy was focused on trying to achieve a comprehensive opposition boycott and the delegitimization of the results. They failed.

25. The sole opposition party committed to contesting throughout, Hassan al Turabi's PCP, competed for the same constituency as the NCP but with few resources, and was unable to make inroads. Given their failure to register their supporters, the Umma and DUP could have won seats or governorships only with prior agreement with the NCP, and they both remained undecided during the nominations period, closing that door. When the DUP finally decided, it was humiliated. The Umma is also being humiliated by the revelations that it received payments from the NCP to compete, but failed to do so. Opposition leaders can retain a semblance of pride only by insisting that the results are fraudulent and illegitimate. Their complaints will be echoed by national and international NGOs.

26. The election left very large sections of the northern populace feeling excluded and frustrated, even defrauded. These people are without leaders or organization, but some in the younger generation of the opposition may sense an opportunity.

CPA Implementation

27. A re-asserted NCP-SPLM partnership will open the door to bilateral negotiations on the key issues remaining in CPA implementation. Key issues to be resolved include:

- a. Setting up a new national/federal government and Government of Southern Sudan;
- b. Holding by-elections in those places where NEC has determined that the elections must be re-run;

- c. Passing the legislation held over from the last parliament on the additional seats for southern Sudan, for South Kordofan and Abyei;
- d. Setting up the Southern Sudan Referendum Commission and establishing the voters' register in both southern and northern Sudan;
- e. Setting up the Abyei Referendum Commission, determining voters' eligibility criteria and establishing the voters' register;
- f. Resolving the outstanding issues on the north-south border;
- g. Conducting a new census for South Kordofan and holding gubernatorial and legislative assembly elections in that state;
- h. Organizing and holding the Popular Consultations in Blue Nile and South Kordofan states.

28. This is a formidable list. Much will depend on the extent to which the NCP and SPLM can establish a working partnership even before the new governments are formally/constitutionally established in Khartoum and Juba.

29. Post-referenda issues will also need to be negotiated during the remaining months before the beginning of the campaigns in November. Key issues include the division of oil revenue, citizenship and nationality issues, the rights of border communities, and debts and assets.

30. One issue requiring attention is the technical integrity of the referenda, which, should it fall short of expectations, could have important political implications. When the international election observer missions file their final reports, they are likely to conclude that the integrity of the electoral process cannot properly be evaluated due to technical shortcomings, especially in the voters' register and the counting and processing of results. Such a finding might have serious implications for the organization of the referenda and openings for one or other party to challenge any results.

Darfur

31. National Sudanese considerations require that a political settlement in Darfur is reached in the next six months.

32. The post-election situation in Darfur requires careful assessment. The election passed off peacefully, which is a significant achievement. In West Darfur State, the gubernatorial contest was genuinely competitive. A political agreement between the NCP and the losing candidate for the West Darfur governorship, who is the brother of the Sultan of Masalit and who commands much popular support among the Masalit, will be necessary to ensure the stability of that state. In North and South Darfur, large constituencies feel disenfranchised and excluded. North Darfur also faces an economic downturn following the collapse of a pyramid scheme.

33. The Sudan-Chad rapprochement appears solid. JEM controls significant territory in northwest Darfur. Abdel Wahid's fortunes continue to fade to near-insignificance, as more Fur groups defect from him. Some are coalescing, perhaps tactically, around Tijani Sese and the LJM. It is possible that the President will be ready to offer positions in the new government to the Darfur to JEM and LJM (anticipating that the latter, at least, will accept).

34. The Doha peace process will remain suspended until a new government is formed. We can expect a new government negotiator and a new insistence by the elected governors of the Darfur states that they be directly represented at the talks. However, there is no indication that the existing format for the talks will produce any progress. As before, Darfur requires an inclusive political process with a wide-ranging agenda in line with AUPD recommendations.

Regional and International Coordination

35. The election has produced a remarkable and unexpected result, namely consensus among regional and international players, including the AU, UN, IGAD, LAS, neighbouring countries, the P5, EU and other international partners, that the implementation of the CPA is the strategic goal and that the elections need to be framed accordingly. In addition, the two international missions in Sudan, UNMIS and UNAMID, are each under new leadership. The immediate post-electoral period therefore presents the best opportunity in a decade for forging an international consensus on Sudan, and establishing mechanisms for harmonized and coordinated international action.

36. The AUHIP is seizing this opportunity to establish a trilateral arrangement including the Panel and the leadership of UNMIS (SRSG Haile Menkerios) and UNAMID (JSR Ibrahim Gambari), as a primary coordination mechanism. The trilateral will in turn report to principals at the AU and UN, and will bring in a Sudan Consultative Group consisting of IGAD, LAS, OIC, P5 Special Envoys, EU, Norway and several other Special Envoys. For the first time since the Naivasha negotiations got underway, Sudan will have a single coordinated forum for international engagement on peace-related issues.

Next Steps

37. The AU and UN should encourage President Omar al Bashir and President Salva Kiir to establish caretaker governments, filling at least those posts that are necessary for bilateral negotiations to begin on CPA implementation issues. They should also press for both governments to be as inclusive as possible given the constraint of scarcity of time.

38. The SPLM needs political and technical assistance in facing the challenges of the post-election period.

39. Given the perceived democratic deficit of the electoral process and outcome, formulae for democratization are required. Some of these could be found at the state level, for example by bringing Darfuri opposition into government with offers of a new census and elections to follow an interim period of rehabilitation, or expanding the remit of the Popular Consultations in South Kordofan and Blue Nile. Another component could be preserving freedoms of expression and association and promoting the civil society sector. The AU should consider mechanisms to promote such steps.

40. President Bashir has the opportunity to unblock the Darfur political impasse with bold offers to rebel leaders. These will not remove the need for an inclusive process but could greatly facilitate it.

41. The AU-UN High Level Meeting is an opportunity for establishing an international coordination mechanism that can play the leading role in helping steer Sudan through the next 12 months.