

Notes

CODESRIA discussion post-referendum arrangements

Quality Hotel, Juba

18 May 2010

1. Ebrima: southern Sudanese referendum could be the most important event in Africa since the end of Apartheid.
2. Al Tayeb Zain al Abdin: voting for unity is voting for existing status of government under the CPA, or secession. 6 months to implement the decision is very short. SSRC will be appointed soon. Fears of rigging in N and S lead some to recommend that the international community should supervise.
3. Ref act has 9 areas for negotiation. Important issues: Abyei, population movements, state symbols and names. Serious and complicated issues: need time, mediation, expertise. Should negotiations start with high priority issues, such as oil revenue, to reach agreement before the referendum. Extend the interim period to 18 months to Dec 2012 to reach sound agreement on all issues.
4. Citizenship: ref act will make 1m southerners in north into foreigners. Tens of thousands in army and police; as foreigners will lose their positions. Big humanitarian cost. Oil: could cut 60-70% of northern govt budget. Parties have to work together on this. Abyei: not mentioned in referendum act, but very tough. Eligibility: controversial. Nile Waters: what if GoSS stands with upstream countries against Egypt and Sudan. Partnership needs to be positive and trusting.
5. Serious risk of war, between two states and internal to each; the worst possible outcome.
6. Martison Oturomoi, member of secretariat of GoSS taskforce. I have the benefit of working with the SPLM team and attending the negotiations. I come from a practical perspective knowing what is really happening.
7. CPA commitments: parties committed to end Africa's longest war; recognized many years of injustice between different regions of Sudan. Unity should be based on free will of people etc. On the basis of justice etc, unity should be given priority. These preconditions, prior arrangements, include free will, democratic governance, etc. Parties managed to design institutional arrangements to make unity attractive. Have the parties implemented what was designed? Not just giving ministries: most SPLM ministers are figureheads with the entire institutional structure under NCP. Important to assess whether unity has been made attractive? Power sharing: few posts in national civil service for southerners. Security: JIUs

haven't been practically integrated. Supposed to have a doctrine for being non-partisan etc. Not developed. The two armies have different doctrines. Foreign policy: clear contradictions. Still a monopoly of the NCP. National capital supposed to be a symbol of national unity, to reflect the diversity of Sudan. Khartoum still seen as the capital for northern Sudanese. How do you expect me to live in a national capital that refuses to recognize my views? Population census... deliberate reduction of population to 21%. Another way of not making unity attractive. Border: NCP says 4, SPLM says 6 areas of disagreement. Delay is not helping to create trust. Concern for border: these people must go but we will do what we can on the border. And many others. We believe that the arrangements to make unity attractive: have not done enough.

8. In Tayeb's presentation, a lot of emphasis on the south: all bad things about how it cannot govern itself. But my worry is the future of the north. South is a uniting factor in the north. Much divergence in the north.
9. We have to negotiate on PRAs. Trust between the parties is needed.
10. Hamad Hawi Omar. I am not from the north and not from the south. Need to understand the historical relationship between north and south. John Gai: problem is contradiction between ideologies of NIF and SPLM. Don't agree. We need background on NIF. John Gai made NIF equivalent to the north. In 1986 they got 28% of vote. Became small part of opposition in parliament; then took power by coup. This is not Islam, it is NIF's interpretation of Islam. Opposition from within north eg 28. So unfair to put NIF as equivalent to whole north. Asmara declaration agreed on RSD for south, state and politics. Then SPLM went alone to sign CPA excluding NDA. So CPA not comprehensive, just NCP and SPLM. NCP behaviour not attractive and not just to the south. Juba coalition: issue is to change or reform the whole system. SPLM made this collapse. Now SPLM complaining of behaviour of government but the system is weakened by the behavior of the SPLM too. We should stand for rights but without blaming others. If the justification for secession is the existing government in the north, and that government is brought into being by CPA; if you blame the government in the north you are against the CPA and hence against RSD. Better description: centralized elite allied with security is marginalizing other regions. This elite is not only from the north but also from the south. Not a north-south problem but a problem of governance that cannot be solved by referendum.
11. Issues of citizenship, mobile citizens, people you cannot describe as north or south; issue of petrol from south going through the north; petrol without pipes and pipes without petrol. In case of unity, we need a complementary CPA. How attractive is secession? Issues like national capital can be solved... can be moved to any other place.
12. Liz Gaere: policy advisor, minister of presidential affairs. Focus on 3 things. (1) GoSS preparations. (2) Role of IC. (3) Role of academic community.

13. GoSS has 3 track approach: referendum itself (conduct and management), PRAs, governance after the referendum. Useful.
14. Referendum: resp with SSRC, but GoSS charged with creating the enabling environment. Security, operation of media, knowledge base of citizens. GoSS can have active role, as also demonstrated by elections. Tight timeline, but can be done. (East Timor took 4 months).
15. Benefits of working out a solution ahead of time. Some progress already. CPA doesn't oblige the parties to reach an agreement. But at least an in-principle agreement is important. Legislation and overall agenda are there: programme of structured discussion. Ground for optimism. IC has discussed many issues, background research, case studies, lessons learned, options, shared with parties, so good foundation. Importance of win-win solution. Need to explore models for collaboration. But good examples to look at from around the world. Art 67 issues are complex. But could reach framework agreement. What issues can be addressed ahead of the referendum? Agree: smooth transition, some difficult issues like security, citizenship, oil sector. But there can be a sequenced approach. Prioritization and sequencing important. Should reach a framework agreement prior to referendum and then have staged implementation afterwards. No need to extend the interim period so some issues can take longer.
16. Preparing governance for GoSS. Start thinking now for beyond 2011. Much of agenda for governance holds good for both unity and secession. Building democratic and decentralised governance. Institution building; successor to INC; strong and viable economy and diversifying growth; security arrangements; social and political cohesion; and if secession— build strong national identity. GoSS has a right and obligation to prepare for both scenarios.
17. What do the people of southern Sudan want their country to look like? GoSS has its vision 2040, overall vision for the future: governance, economics etc. GoSS wants to consult and consolidate this.
18. GoSS has 2011 Taskforce. Inside govt and with international stakeholders, covering the 3 tracks.
19. Role of IC: support from IC is important to enable referendum to happen on time. Help parties reach early PRA. AU and UN lining up. Encourage the parties to build broad domestic consensus and not just an elite agreement. IC needs to provide long term institutional development capacity building. UN will be an important player.
20. Role of academics: help to stimulate and inform debate, pros and cons of outcomes, sharing best practice, providing expertise, advocacy for free and fair referendum, informed debate on future of southern Sudan, explore issues of identity, inclusiveness etc, bridges between academics N and S, subregion.

21. Abdul Mohammed: need for political framework to anchor the negotiations. Cannot approach this sector by sector, in isolation from a political framework. Without the political framework there will be no heart. The framework document must be done exclusively by the parties, both the comrades and the sheikhs. Cannot farm it out, cannot hire consultants for it. The shared vision can only be articulated by them. A Sudanese document that can only be owned by them. No outside experience is a substitute... once they have that we can help them fill in, on oil etc etc.
22. A lot of work has been done on PRAs especially on the assumption that south will separate. Well done, useful. Technical in nature. But very little work has been done, with unity in mind. For purposes of future relationship, need to give unity a fair chance with technical expertise.
23. Sovereign issues and people's issues. E.g., nobody in Sudan should be left stateless. Grazing land. Financial and economic issues cover both.
24. Establish effective GoNU in the last 8 months. Agree on a clear timetable. Negotiate the PRA in a manner that makes future unity possible. N-S relationship has to be special. Design institutions that will embody this special relationship.
25. Muin: we mustn't underestimate the complexity of the conduct of the referendum itself. We cannot afford irregularities that would allow it to be contested. We cannot have anything less than international standards. In elections, IC looked the other way; they won't do so with the referendum.
26. PRIs: linked to, who will implement the PRIs? There is a role for the IC esp the UN. We need to know what our role will look like, our mandate. In negotiations, parties need to consider the role of the IC. Don't leave it to the UNSC or P5, parties must tell the IC.
27. Political framework: need. PRIs not based on CPA. So no other reference for negotiations. Should include, what if we don't conclude discussions before the referendum; should chart a way forward, provide reference if getting stuck.
28. South 2040 vision: crucial. Would be useful, after the referendum, what is the next step, only the south can take the sovereign decisions. Assessing deficiencies etc.
29. Gasim Badri: NCP and SPLM only paying lip service to unity. Neither will give unity a chance, for different reasons. NCP is marking time. Fate of Sudan sealed by 2 parties; NCP doesn't represent the northern Sudanese as a whole. Separation is going to happen, it will be a very sad moment in the history of Sudan. When they have real democratic governments they will reunite in the future; what unites us is more than what divides us. We are not Arabs like the Arabs, we are not Muslims like the Muslims, we are not Christians like the Christians, we are not Africans like the Africans, we are Sudanese. But the politicians are not interested in the people, their ideology is more important to them. The name SPLM is not southern liberation

movement but maybe they got fed up, don't have the patience to wait for the liberation of the Sudan, going for an easy solution, but it will get Sudan into too many problems. I don't know why people are pushing for the referendum. There are two separate governments, so why the hurry. It will just be the same thing. If people are really interested in unity, if the referendum can be postponed for 2-3 years, why not. If the IC is fed up with the problem of Sudan, let them go! We are not fed up with our country.

30. Peter Adwok: I hope it will not be like the Saharawi referendum. I appreciate the sentiments of Gasim. But to postpone the referendum, the consequences would be worse. The problem is the attitude: we need to change. What is the reality on the ground? At governors' forum in Wau, someone asked, what is attractive unity, who is supposed to make it attractive? If there is clear agreement that the country is already divided, the people should know... Issues of referendum have already been agreed. In Sudan you make an agreement with the thought of not implementing it. We need to get out of that attitude of mind.
31. The biggest tool for the unity of Sudan was the NDA. But the political forces that comprised the NDA are still operating on the old model of political exclusion on the basis of religion, race and language. Cannot unite the country on this basis. So when we take CPA as the basis for restructuring the country... the NCP started to drag its feet. It seems that NCP signed because a big stick was hanging over its head. SPLM's mistake: to acquiesce to NCP machinations, kept retreating until 10 Oct 07 when froze participation in GoNU until NCP made new promises (not implemented).
32. When Garang talked of unity it was Garang alone, did not reflect what the majority of the southerners thought. Said, you accompany me to where you think the south stops and then let me go alone. Forces in the north for unity are not there. It is for the north to show that they are ready to accept comrades etc... No need for SPLM to put up a candidate, flirt with northern opposition, as it jeopardized the CPA itself. Was wrong to put Yasir. He withdrew voluntarily. Politb was ready to back him even though a contradiction. But we handed power to the NCP on a plate. If the opposition had contested would have forced a second round. NCP has the majority in the parliament to change the INC.
33. Naivasha: the SPLM should have agreed on what it was going to implement, its policies, for the 6 years. CPA specified institutions, OK. But what would each ministry do during the IP. Has only spelled out in pres decree 34, 2005; which specified powers in each ministry that was given to SPLM, shifting powers to councils and commissions, created, so NCP could run a parallel and invisible govt, parallel to GoNU, meet at night.
34. Only min of higher education, didn't shift. Peter Nyot unwell but cabinet minister became state minister too; Peter left hanging, all senior administrators directed to implement NCP policies. Also George when he came. I came to see what was happening, removed all director generals. A big row when I did that.

35. When I speak of unity with this kind of regime, a big historical error. I started as a unionist but my time in the govt has radicalized me. So we need good neighbourliness, people to move N to S, we speak of soft landing ground, let us be practical.
36. Vanessa: A lot of technical work for secession: what about preparing for unity? Simple answer: CPA. But we can be more creative. What are all the changes possible prior to referendum to make unity attractive. Small problem: CPA says, voters will vote for system of government established by CPA, or secession. Formula for negotiation on unity: focus on CPA and look at enhancing it. Make CPA into a floor, ensure there is no rollback. E.g. open and inclusive process for a permanent constitution.
37. How to make unity attractive for the future? How to make secession attractive so that we make sure that the two parties engage each other constructively? E.g. oil sector we will need extensive economic cooperation. Make secession attractive by making bilateral cooperation attractive, making cooperation lead to prosperity on both sides, leading to joint commissions and bilateral agreements. We don't need to fear issues like oil and citizenship as they have been dealt with elsewhere. Setting up a framework for the negotiations first: e.g. make sure that oil continues to flow, make sure that citizenship is based on rights, make sure both economies are viable. Wealth sharing doesn't work when there's secession; it is about economic cooperation agreements, services agreements, might not alter the actual flows but would be a different dynamic, the division of funds might be different with going first to the 2 governments ... plenty of examples; foundational principles in the beginning on their final objectives are needed, ensuring that governments have what they need resources and security to meet goals. If both parties ensure not a lot of rhetoric, a mutual common interest, don't want to destabilize our people, pensions, residence livelihoods, principles to divide those discussions, avoid statelessness, legal residency, rights protected (short of right to vote)... IC will play a huge role, cooperating esp on movements of people.
38. Chris Landsberg: why is it believed that it is possible to achieve under separation what we couldn't achieve under unity, namely trust and cooperation and lack of undermining by one party vis a vis the other. Why is unity possible under separation when it wasn't possible under unity? If Peter is right, southern Sudanese felt undermined, why would their undermining cease after separation? Why would north help south succeed? Why wouldn't it destabilise the south to make sure it doesn't succeed?
39. We haven't mentioned civil society. Questions of ownership of this transition might be raised after the referendum. IC might create CS forces after the transition. Do Sudanese really feel they own it?
40. Hassan: no need to bring excuses, real or imagined, for leaning towards separation. Concentrate on suggestions for PRI, not history. For negotiators, need guiding intellectual principle. Suggest: integration. Free economic and social borders, maintaining the political border. Then integration might achieve what unity failed to do.

41. Joanna: trend in NCP for secession?
42. Mahmood: you can have a referendum for one party to break away; but for unity both parties must agree.
43. Interpretation of Garang, overly ideological, overlooks his political strength. He saw the need for a national struggle, succeeded in isolating the NCP, but at the point of triumph, withdrew, when the prize was within reach. ANC isolated the white establishment, assured the whites they had nothing to fear. Same with Garang. After 94, unleashed the middle class to accumulate wealth with indecent speed. Be prepared for that and for the popular response for it.
44. Ebrima: distrust prevails; IC forces people to come together and talk, when they distrust each other; must understand where their strategic interests lie; IC plays the role of forcing you to sign and police agreement, but they will get tired.
45. Possibility of SPLM becoming an all-Sudan democratic movement. It had that opportunity, but the thinking didn't go that far.
46. The onus is on the north. There has to be a strategic move from the north, not just the NCP but also the intellectuals, CSOs, to redefine Sudan.
47. Region: Egypt, Ethiopia, Uganda, don't have the same position. Political framework should govern attitude to everything that happens.
48. No-one can parallel the humiliation of South Africans. They worked out their strategic interests... But no case resembles Sudan. Needs an original solution. SD can be understood in different ways.
49. Lawrence: distinction between political and economic unity; political vs union. Caribbean, EAC and Koreas. Caribbean, EAC, Rhodesias: union imposed by colonialists but they have started organically moving towards economic union. A political union will follow. But none were at tension with each other. Koreas: very different. We mustn't forget the regional context. Multivariate economic integration. Political unity, would be part of a wider regional process involving a subregional economic union driving any political unification.
50. Darfur will not stay still after 2011, making political unity more remote. Will be natural evolution of a wider economic space.
51. Martinson: trust and mistrust; between people and between political leaders. It will be possible to build trust when we have separate countries. NCP said census found 500,000 southerners in north now saying there are 4m. Still challenges for how we go forward to the referendum.

52. Al Tayeb: we should be unfair to the NCP: it agreed to the CPA, it was the only northern party to agree to it. Whatever delay happened, we have reached the referendum; the key things are all done, finished. So accusing the NCP of dragging its feet, unfair. What about failures of SPLM? SPLA didn't withdraw from BNS, SKS. What about customs duty, should be a federal responsibility, not GoSS? Its own entry visa for southern Sudan? Idea of New Sudan: should be SPLM: we don't see it in southern Sudan. SPLM let down its constituents in northern Sudan during the election.
53. NCP separatists. (1) Enough trouble from southern Sudan, we are different in all respects, so let them go. Al Salam al Adil forum, have their own newspaper. (2) Officials and ministers in government and NCP, won't say we want separation, when we want to spend money on development projects in south, they deny; we are meeting the expenses of federal govt., Darfur etc., so not contributing to make unity attractive. But unity never had much prospect even before the CPA. Even those who agreed in 1997 argued for separation. Once people are mobilized to fight against others, how can you argue that you are against just one branch, one political party... SPLM cannot go back and tell people to vote for unity. A good indication: Yasir still got 76% of the vote in the south.
54. Hamad: southerners are not against unity per se but against certain policies, maybe marginalization. If discussion went in that way it would be more logical, more acceptable. We can work together for these ideals. History of Sudan: only 6 years of democracy. Sudanese people are helpless. In these democratic years they reached round table and Mirghani Garang. Without the northerners the SPLM could not have achieved what it achieved. Easy to describe it as racist. Because of existence of northerners within SPLM it succeeded. Northerners have their share of that role. People in south are giving a deaf ear to any speech for unity. So this is encouraging northern separatists.
55. Nureldin: central debate in Sudan: between Islamist and secularists. Can we reform that state to an extent that would be acceptable to all? We are not ready for that and won't be soon.
56. Separation/secession: political surgery. Both parts will suffer. Painful readjustment will have to take place; the two parts will need each other to survive. Special attention needed to the border areas. We need to let them talk among themselves. We made the mistake of taking the decision out of the hands of the local people.
57. Regional economic integration: the way to go. Sudan should have joined EAC a long time ago.
58. Citizenship: can be dual.
59. Biong: the democratic/dictatorship division is false; the military leadership is part of a political establishment.

60. Muin: faced with a legitimate, prolonged secessionist movement, how does a govt respond?
It is your responsibility to make a good offer.
61. Abdul: current narrative that is really exercising us about Sudan is the negativeness of the narratives and that is what is engaging us and this is what is engaging the international community you know, for me, well there is another Sudan which should not be lost upon us. The current narratives do not do justice to the people of Sudan, the fundamental casualty is this characteristic of Sudan. Failure of the Sudan should not spill over into Africa's quest for unity and integration. Separation should not make us give up on this unity/separation agenda. A Sudanese solution, in line with the pragmatic nature of the Sudanese character. Both should have a government as good as its people.
62. John: negotiating a peace agreement different from negotiating a divorce.
63. SPLM too its agenda to be a national agenda. South didn't fight for everyone; it invited others to fight; northern sector is the one driving the transformation it is for them to lead that. We don't use people and dump them.
64. Peter: issue of militia. Will be very serious matter in PRA.