

ISS Seminar Report

Seminar Title: South Sudan's Referendum-Geopolitical and Geostrategic Implications

Event Date: Tuesday 22 February 2011

Venue: Brooklyn Lodge, New Muckleneuk, Pretoria.

Overview

Africa's largest country, Sudan, has since independence not been able to make peace with itself, partly because of its inability to reconcile the imperatives of nationhood with entrenched regional, ethnic and religious identities. The historic referendum in January 2011 was in some sense, intended to determine whether peace and stability in the Sudan was feasible within the framework of a united entity or through separation. While the vote, on the whole, went smoothly and expectations were that the final outcome would be embraced by the major actors, there was consensus among various stakeholders that the referendum vote would have far reaching geopolitical and geostrategic implications on both the North and the South. This is particularly so in light of the wide-range of issues that remain unresolved between the then two 'prospective sovereign entities' of North and South Sudan. This includes, among others; the demarcation of the north-south border; and post referendum arrangements relating to citizenship; security and sharing of liabilities and assets. These, alongside social and political cracks in the polities of both North and South Sudan, including the complicated crisis in Darfur, cast a shadow of uncertainty on the prospects for long-term peace and stability in the region.

This seminar sought to:

- Explore the implications of South Sudan's referendum on both the North and the South;
- Examine the nature and form of possible post-referendum relations
- Assess the likely implications of the referendum on the crisis dynamics in Darfur; and
- Appraise the possible impact of the referendum on questions of self-determination in Africa

Participants included representatives of diplomatic missions in South Africa, members of the civil society (nongovernmental organizations, academia and government officials.

Richard Cornwell, a former Senior Research Fellow at the Institute for Security Studies, chaired the seminar. Speakers included: His Excellence Ali Yousif Ahmed Al-Sharif-the Ambassador of Sudan to the Republic of South Africa, Dr John Yoh-the Principal Liaison Officer at the South Sudan Liaison Office in South Africa, Rev. Sean O'Leary-the Director of Dennis Hurley Peace Institute, and Kisiangani Emmanuel- a Senior Researcher at the Institute for Security Studies.

Introductory remarks

Dr Francis Ikome, the Head of the African Conflict Prevention Programme, on behalf of the two ISS co-hosting programmes, the African Conflict Prevention Programme (ACCP) and the International Crime in Africa Programme (ICAP), welcomed participants and made a few introductory remarks. He highlighted the significance and strategic importance of South Sudan's referendum to the North and South Sudan, the region and the international community. Richard Cornwell, in his preliminary

remarks, commented that while the question of South Sudan's self-determination was expected to dominate Africa's political landscape in 2011, it had unexpectedly been clouded by the mass uprisings in North Africa. He, however, noted that this not necessarily be a bad thing as it may just give North and South Sudan the time out of the limelight to pursue pragmatic approaches to challenges that confront the two.

Presentations

The first presenter, Ambassador Ali Yousif Ahmed Al-Sharif, examined the implications of South Sudan's referendum on the North-South relations from a Northern Sudan perspective. He began by likening South Sudan's self-determination to the mass uprisings in North Africa stating that both reflected the importance of the 'will of the people'. He added that while he believed in the idea of a united Sudan, he also accepted that unity could not be brought about through coercion, but rather through persuasion and logic. The Ambassador noted that South Sudan was not the first pro-independence region to go through a self-determination process and gave the example of Eritrea, which seceded from Ethiopia in 1993. He, however, said Eritrea's case was slightly different because it existed under both Italian and British colonial rule as a separate entity and was only annexed by Ethiopia in 1952. On the prevalence of reservations about the right to self-determination in Africa, Ambassador Ali noted that it was not necessarily a bad thing especially if it reflected the will of the people. He congratulated the people of South Sudan and Sudan broadly for defying predictions of doom and gloom and negotiating successfully the implementation of the Comprehensive Peace Agreement (CPA). He, further, acknowledged that the referendum was not an end in itself; rather, it marked the beginning of new challenges and exhorted the two parties, North and South Sudan, to be committed to the course of peace. So far, he said, all indications were that the parties carried that commitment as evidenced in the reduction of armed confrontation between the two parties.

Nonetheless there are a number of outstanding issues to the CPA and Ambassador Ali singled out the sharing of oil revenue, border demarcation, dispute over the Abyei region, debts and assets and the question of citizenship, among others, as being critical to the post-referendum transition. He cited, in particular, the disputed region of Abyei as a potential threat to peaceful north-south relations. As a background, Abyei was, historically, inhabited by the chiefdoms of the Ngok Dinka and was, under British rule, annexed to the northern state of Kordofan state in 1905 (i.e. the British administered North and South Sudan separately). The intervening decades witnessed an increased presence of the Misseriya nomadic community who spent about 8 months of the year grazing their livestock in Abyei. For sometime now the Misseriya community has been claiming land rights in the Abyei region. As a result, attempts to determine who has the right over Abyei or whether Abyei belongs to the north or the south has remained problematic. Due to this stand off, Abyei could not hold a vote on whether to remain with the north or join the south concurrently with the South Sudan's self-determination referendum as envisaged in the CPA.

The question then is how should the two countries deal with the above issues? On Abyei, Ambassador Ali suggested that any solution needs to reflect the current realities on the ground and proposed that Abyei region could actually serve as a starting point for integration between the two states. In other words North and South Sudan should find a formulae for administering Abyei in a manner that accommodates the interests of both the Dinka and Misseriya groups. On the issue of

citizenship, the Ambassador submitted that the two parties either settle on dual citizenship or open up citizenship to South Sudanese in the North and Northern Sudanese in the South to choose whether they want to belong to the north or south. The Ambassador also urged for the cancellation of debts so that the two countries would begin on a clean slate. Touching on Darfur, Ambassador Ali pointed out that the issues and dynamics in Darfur are not directly linked to those in the South although both cases stem from the problem of marginalization. To him, if the North-South conflict could be resolved, clearly indicates that the Darfur problem too could be settled although he was swift in highlighting that self-determination has not been on the agenda of negotiations in Darfur. In conclusion, Ambassador Ali hoped that North and South Sudan would one day reunite again

The second speaker Dr John Yoh looked at the implications of South Sudan's referendum on the North-South relationship from a Southern Sudan perspective. He began by giving a historical overview of the secession movement in the south, stating that although it became overt in 1955 it had roots in the colonial period stretching as far back as the 1920s. To Yoh, the history of the north-south conflict in Sudan evokes several important questions; first, whether SPLM was a liberation movement or a group that simply wanted to change the regime? If it was a liberation movement, what was its ideological position? Second, how have the people of Southern and Northern Sudan viewed the central government since 1956 (when Sudan gained independence) and how do they view each other?

To Dr Yoh the differences between SPLM and Khartoum have largely been ideological with SPLM initially seeking comprehensive reform of Sudan in order to establish a just and inclusive society. To him, therefore, the problem was with the political leadership rather than the people of the South and North. In other words the people of North and South Sudan do not view each other differently, rather, it is the political leadership that has been dividing and polarizing their relations since 1956. It is for this reason, he argued, that when President Bashir visited the South immediately before the referendum and pledged to respect the will of the people of Southern Sudan, perceptions in the South about him changed dramatically with many starting to regard him as a national leader because he appeared to transcend the politics of exclusion.

Dr Yoh also addressed the issue of the duality of the post independent South Sudan observing that while there is anticipation, especially among South Sudanese in the diaspora and exile of a 21st century lifestyle back 'home', the population that remained at home and which was for long periods, preoccupied with war, could not be expected to behave in a 'modernised' way. He urged for patience in the building of the new state arguing that most of the people charged with that responsibility have never had any experience in governing. Projecting forward, Dr Yoh stated that the new state would have to deal with the challenges of nurturing new institutions, including reviewing the current constitution, carrying out a new census, holding elections for the national assembly, which then will have to pass the new constitution. The government of South Sudan will also have to negotiate the question of administering the country's current ten states, which according to him are unsustainable in their present form. He also observed that South Sudan would need to diversify its economy away from a reliance on oil.

In terms of managing the North-South relations, Dr Yoh argued that an emphasis on idealistic tenets such as national reconciliation may not be helpful at the moment and recommended for a focus on hard realities, particularly, issues that are likely to animate conflict and instability. He said for instance that there is need to create a soft border between the North and South given the about 6 million people are used to moving freely across the border. South Sudan, he said, is also landlocked and will need to manage its relations with neighbours in a realistic and pragmatic manner. He said that previously South Sudan used to blame nearly all its problems on the north and contended that it would be foolhardy to do so now or to try and destabilise the north and vice versa.

The third presenter, Seán O’Leary revisited the work and experiences of his organization, the Dennis Hurley Peace Institute (hereafter the Institute), in the area of peacekeeping within communities both in North and South Sudan. He pointed out that the activities the Institute is involved in include, among others, capacity building in the areas of negotiation skills and confidence building measures among communities. The aim is to try and help them work together and maintain peace. He gave the illustration of their work among the Dinka and the Zande communities where one of the big challenges that they faced was convincing the two communities to come face to face to dialogue. He said his Institute has adopted a restorative justice model in its work and always tries to ensure that all parties are involved. He further outlined the geographic areas in South Sudan that he described as requiring conflict management during and after the post referendum transition. These include the Malakal area of Jonglei state and Western Equatoria state where the Lords Resistance Army (LRA) has been causing havoc by killings and abductions civilians. He observed that his organization also participated in the LRA negotiations in Juba with the government of Uganda. The talks revolved around terms of a ceasefire and possible peace agreement between the two parties. While the talks ultimately resulted in a ceasefire agreement, the LRA leader Joseph Kony refused to sign the peace agreement in April 2008 arguing that he could not do so unless and until the International Criminal Court (ICC) lifted arrest warrants against him and several members of his group. Seán argued that the ICC was, therefore, to an extent a stumbling block to peace and justice because it has adopted a wrong model of retributive rather than restorative justice

The fourth speaker, Dr Emmanuel Kisiangani focused on South Sudan’s self-determination and its implications for Africa. He first discussed the theoretical concepts of self-determination, defining it as a principle in international law that emphasises the right of a ‘people’ to choose their sovereignty and political status freely and without external compulsion or interference. He noted, however, that the term ‘people’ remains vague and undefined in international law although it is generally used to refer to a group with a shared ethnicity, language, culture, and religion that live within the same state. Kisiangani gave a brief historical overview of the idea of self-determination pointing out that it has remained an important marker of states and is, today, reflected in United Nations (UN) Resolutions 1514 and 2625, and affirmed by various regional human rights instruments and declarations.

Kisiangani observed that besides South Sudan, there are a number of other cases in Africa where the issue of self-determination remains unresolved. These include: Angola’s Cabinda region, Democratic Republic of Angola’s Katanga region, Ethiopia’s Gambela and Ogaden regions, Morocco’s Western Sahara region and

Senegal's Casamance, among others. The question then is will South Sudan's self-determination set a dangerous precedent for Africa? Kisiangani cited Libyan leader Moammar Kadhafi's statement at a meeting of African and Arab leaders in October last year where he warned that "Southern Sudan's independence would spread like a disease...to all of Africa...With this precedent, investors will be frightened to invest in Africa." To Kisiangani, for a continent where, in geopolitical terms, the idea of the 'state' has remained in perpetual conflict with that of 'ethnic identity', concerns about South Sudan's example setting a precedent seem, in principle, to be relevant. Indeed, it is due to these fears that Africa's cooperative institutions including the Organization of African Unity (OAU) and its successor, the African Union (AU), have for long held the principle of sanctity and inviolability of colonial borders, regardless of the arbitrary nature in which they were drawn.

Some observers have, for instance, been asking why 'splitting' Sudan appears acceptable and not secessionist cases like Somaliland, which declared independence from Somalia in 1991, is relatively stable and has since held a number of peaceful, democratic elections. Somaliland recently started seeking to restore the old British Somaliland Protectorate border, which existed until 1960. Yet Somaliland remains internationally unrecognised even by the AU, although some AU member states, in their individual capacities, have indicated willingness to recognise it. Some have argued that because the mother state, Somalia, lacks an effective government, there is no way that Somaliland can exercise internal self-determination but others argue that the people of Somaliland might choose to exercise de facto self-determination. The challenge for the latter case is for Somaliland independence to be recognized. To Kisiangani, the emergence of a functional state in Somaliland presents a compelling case for self-determination. He argued that the AU's (and the international community's) reaction toward Somaliland, however, has been uneven compared to that of South Sudan. The perception is that it has been dictated more by politics than principle.

To Kisiangani, Southern Sudan's self-determination raises an important question; is; is self-determination, in principle, wrong for Africa? Although Africa's continental institutions agree that colonial borders were drawn arbitrarily, they hold that keeping them the way they were at independence helps to ensure relative stability and averts the potential risks and uncertainties of changing them. To Kisiangani, this doctrine on the 'inviolability' of boundaries makes sense when seen in light of the many African countries that struggle with opposition movements, but where the circumstances leave little choice, he argued, the AU should either provide some form of defence or allow self-determination as a weapon of choice. The policy of maintaining the status quo, he argued, may not necessarily stop self-determination claims or solve the problem. He pointed out that indeed, while it is logical to support territorial integrity as a moral and legal aspect of constitutional democracy, there should be room for the remedial measure of self-determination where a group has suffered extreme injustices, for which self-determination appears to be the only last resort. Clearly, then, it would be simplistic to say either that self-determination is the answer to Africa's intra-state conflicts or that it is totally bad for Africa. Priority, however, he maintained should be given to dealing with the factors that combine to cause self-determination claims. Instructively, he observed, South Sudan has been accorded a lot of international support by regional and international actors, giving the impression that self-determination can be a useful tool for creating stable societies and a means to manage

protracted armed conflict between groups on the continent. He added that the Southern Sudan experiment, needs to work because if it does not, then will confirm the fears of those who hold colonial borders as sacrosanct.

Question and Answer Session

During this session, a number of comments and issues emerged. These included comments to the effect that failure to resolve disputes over the border areas is likely to be the biggest threat to the peaceful implementation of the referendum outcome. A number of views also suggested that laying the foundations for a mutually beneficial post-referendum transition will require political will and cooperation between the two parties because of their continued socio-economic interdependence. It was also noted that any current external engagement with both North and South Sudan has to take cognizance of the historical as well current realities by adopting a systemic approach to dealing with issues of conflicts in both regions i.e. it is not sufficient to focus only on certain regions in the north or south, rather, the focus should be on the interconnectedness of socio-economic and political aspects.

Questions were also raised including on whether or not there is contradiction between self-determination and OAU/AU's principle on colonial borders. The argument by the participant was that self-determination, as was the case with South Sudan, split the country but did not alter colonial 'state' borders. Other concerns related to the meaning of soft borders, whether there are efforts to manage expectations especially in the South, whether globalization has undermined self-determination, the prospects for joint integrated units given the referendum outcome and whether events in North Africa, especially Egypt would affect the dynamics in the 'two Sudans'. There was also a concern on the oscillating search for peace Darfur with one speaker questioning whether Darfur was being forced to be part of Sudan.

In responses to the question of self determination and colonial borders, the clarification was that OAU/AU's principle underscored three aspects; the perception that Africa's colonial borders were arbitrarily drawn, that they were external impositions incompatible with African realities but that their review would be counter productive since it would animate chaos in the state system. According to the respondent, the continental bodies' position did not only refer to the changing of national borders but also to ethnic and other claims to independence and the fear was that it would dismember African states. On the question of a soft border, the explanation was that there is need to promote dual citizenship or at least find away of allowing the right of movement across the north-south border. On whether globalization has undermined self determination, it was observed that, that could be the case in Western Europe and other developed countries where the factors that lead to secessionist claims such as exclusive political processes and human rights abuses have been assuaged to an extent. In Africa, however, these factors still exist and this has been compounded by the post September 11 2001 environment where issues of global security including terror attacks have shed into the realm of activism for self-determination, thus providing incentive for some African governments to resort to repressive policies to deal with self determination claims. On the Darfur issue, it was observed that Darfur has not been coerced to be part of Sudan; rather that Darfur is a question of marginalization. On the prospects for joint integrated units, it was observed that given the decision of the South to secede, the forces will be redeployed to the north and south appropriately. Lastly on whether the events in North Africa will

affect the dynamics in Sudan, the response was that what these events demonstrate is that the will of the people will always prevail and that the two Sudans will have to be more responsive and representative if they have to overcome the challenges that have led to mass uprising in North Africa.

Key Observations

- North and South Sudan remain geo-strategically and geopolitically important to the region and to the International community.
- The two parties to the CPA have made significant progress in implementing key CPA provisions including the successful holding of South Sudan's referendum vote.
- A number of key challenges, however, remain chief among them being failure to resolve critical post-referendum issues such as border demarcation, security arrangements, sharing of water assets and oil revenues, as well as decisions about citizenship and currency.
- Sources of armed conflict between and within the North and the South would not simply go away with the referendum.
- The post referendum transition, therefore, requires robust engagement from local and international stakeholders to keep the peace, both in the North and South on track.
- External assistance is required to meet the huge state building and human development challenges, particularly in the South, in order to strengthen the new state's ability to perform sovereign functions effectively and responsibly.
- There is need to promote quick impact projects in the South, besides long term ones, to deal with the challenge of expectations and also stimulate productive sectors, particularly in the areas of infrastructure and education.
- A soft-border regime is required between North and South Sudan to ensure Sudanese living along the border and all Sudanese in general enjoy the benefits of cross-border movement.
- Support to the two governments should also be complemented by the support to civil society groups to help them play an active role in consolidating peace.
- For the AU and Member States, there is need to engage with the issue of self-determination much more positively by remembering the warning that people will turn to rebellion unless they are protected by the rule of law.
- Promoting inclusive governance processes is the best prophylactic against secession conflicts.