



Sudan: Peace or war, unity or secession?

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In April 2010, Sudan held nationwide elections which, nearly all observers agreed, fell well short of 'international standards'. The international community has accepted the results, which saw President Omar al-Bashir, a man subject to an arrest warrant from the International Criminal Court for alleged war crimes and crimes against humanity in Darfur, re-elected as national President. Some observers claim that Sudan's "democratic transformation" has been sacrificed on the altar of another and – it might be argued – greater prize. In January 2011, two referendums that are required under the 2005 Comprehensive Peace Agreement are set to decide the fate of the country. In one, the people of the South will decide whether or not to establish an independent Southern Sudan. In the other, the people of the oil-rich Abyei area, which is located on the still undemarcated border between North and South, will decide which of these to join. To raise the stakes even further, the conflict in Darfur remains unresolved and has flared up again in recent months. This paper sets the scene for what is likely to be a turbulent year ahead for Sudan.

Jon Lunn

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Summary

The 2005 Comprehensive Peace Agreement (CPA) between the ruling National Congress Party (NCP) and the Sudan People's Liberation Movement/Army has been under enormous strain since its inception, but has so far just about held together. It now faces its ultimate test as preparations proceed for two referendums that will decide the fate of Sudan. In January 2011 the people of Southern Sudan are due to vote for or against continued unity and the people of the oil-rich Abyei area are set to decide whether to join the North or the South.

Nationwide elections took place in April 2010, a year later than originally scheduled. Fears that they might kill off the CPA process and plunge North and South back into war were not realised, but the electoral process was extremely flawed and, in the eyes of many, lacked genuine legitimacy. The international community has accepted the victory of President al-Bashir, for whom the International Criminal Court issued a warrant of arrest in March 2009, in the national presidential contest. Virtually all observers expect the South to vote overwhelmingly for secession. The outcome in Abyei is much more uncertain. Many observers remain apprehensive that President al-Bashir's NCP will either prevent the referendums from happening, or reject one or both of their verdicts. Debate has also begun about whether a successor agreement to the CPA, which expires in July 2011, will be needed to regulate future relationships between the North and an independent South. The dominant view is that one will.

There are a host of other major obstacles to building a durable Sudanese peace that must also be overcome in the months ahead – not least, Darfur. The Darfur Peace Agreement of May 2006, did not bring peace. Internationally-brokered negotiations with (and between) the many protagonists continue, often taking a step forward, then one back. Levels of violence diminished during 2009 but are now rising again. Efforts to replace the African Union (AU) peacekeeping force with a stronger United Nations/AU 'hybrid' force have proceeded painfully slowly. The UN/AU Mission in Darfur (UNAMID) remains under-strength and is short of essential equipment. In Eastern Sudan, the Sudanese Government and rebels reached a peace agreement in October 2006. Implementation has been slow and peace remains fragile. Sudan's conflicts continue to have a major 'regional dimension', with neighbouring Chad, Central African Republic and Uganda heavily affected. If the CPA does fail, the effects will also ripple around the Horn of Africa.

The British Government has been a strong supporter of the CPA process. Along with the US and Norway, it is a 'co-guarantor' of the CPA. The development budget for Sudan of the outgoing Labour administration was £115 million for 2009/10 and £140 million for 2010/11. Funding has been focused on: power-sharing and democratisation; wealth-sharing; security, justice and reconciliation; public institutions and basic services; and natural resource management and climate change. The British Government has also been a major contributor towards humanitarian operations in Sudan and a sponsor of the UN Mission in Sudan (UNMIS) and UNAMID.

The paper should be read in conjunction with SN/IA/5555, [Sudan, 2003-09](#), which provides a detailed background to current developments.

For further background on Sudan, see also the following past Research Papers:

[Sudan: Conflict in Darfur](#) (RP 04/51, 23 June 2004)

[Sudan: The elusive quest for peace](#) (RP/06/08, 8 February 2006)

Map of Sudan



Map No. 3707 Rev. 5 UNITED NATIONS
September 2000

Department of Public Information
Cartographic Section

Source: UN Cartographic Section

List of abbreviations

AMIS	African Union Mission in Sudan
AU	African Union
CPA	Comprehensive Peace Agreement
DPA	Darfur Peace Agreement
DUP	Democratic Unionist Party
EU	European Union
GNU	Government of National Unity
GoSS	Government of Southern Sudan
ICC	International Criminal Court
IGAD	Intergovernmental Authority on Development
JEM	Justice and Equality Movement
LJM	Liberation and Justice Movement
LRA	Lord's Resistance Army
MINURCAT	UN Mission in the Central African Republic and in Chad
NCP	National Congress Party
PCP	Popular Congress Party
SCP	Sudanese Communist Party
SLA	Sudanese Liberation Army
SNCF	Sudanese National Consensus Forces
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
UNAMID	United Nations-African Union Hybrid Operation in Darfur
UNMIS	United Nations Mission in Sudan

1 Introduction

Sudan celebrated the fifth anniversary of the Comprehensive Peace Agreement (CPA) between the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) on 9 January 2010, with both parties keenly aware that they were entering the endgame. National elections were due to be held in April 2010, designed under the CPA to reflect a process of "democratic transformation", followed by referendums in January 2011, one to decide whether the South should secede from Sudan and establish a separate, independent state, the other to decide whether the small but oil-rich Abyei area on the North-South border should be part of the South or the North.¹ Anxieties were heightened by the fact that the processes of demarcating the border between North and South, including in the Abyei area, both of which are also provided for under the CPA, had not yet been completed.

In addition, prospects for a just and equitable resolution of the conflict in Darfur appeared remote at the turn of the year. There was also plenty of work to be done to consolidate the fragile peace in the East of the country.

2010 began as every year has since the CPA was signed 2005 – with much expert opinion fearing the worst. For example, the Chairman of the African Union (AU) Commission, Jean Ping, stated that Sudan's situation was like "sitting on a powder keg".²

Under the CPA, Sudan has formally been ruled by a Government of National Unity (GNU) comprising the NCP, led by President Omar al-Bashir, and the SPLM, led by Vice-President Salvar Kiir Mayardit, who is also President of Southern Sudan. However, in practice the GNU has barely functioned, which has meant that the NCP has largely monopolised power at the national level. Following the death of its founder, John Garang, who was relatively open to the idea of a reformed but united Sudan, in 2005, the SPLM has turned decisively towards the option of independence and, accordingly, has focused overwhelmingly on its role under the CPA as the Government of Southern Sudan (GoSS). Under the CPA, Southern Sudan comprises the following ten states: Western Bahr al-Ghazal, Northern Bahr al-Ghazal, Warrap, Eastern Equatoria, Central Equatoria, Western Equatoria, Jonglei, Unity and Upper Nile.³ The remaining 16 states, including the three Darfur states, comprise the North. The Abyei area adjoins Northern Bahr al-Ghazal and Unity states in Southern Sudan, and Southern Darfur.⁴

2 Towards the endgame: Navigating the April 2010 national elections

2.1 Pre-election issues and manoeuvres

At the start of 2010 there were mounting calls for the April 2010 national elections to be delayed, in some cases to as late as November, on the grounds that the conditions for credible and fair elections did not exist.⁵ The NCP rejected such arguments outright. The

¹ Although reliable figures are hard to find, oil output in Abyei was estimated in 2003 to be about 25 per cent of Sudan's total output. Under the CPA, the Abyei area was placed under the direct authority of the national presidency. After several years during which the main parties were unwilling to agree what the boundary of the area should be, the issue was referred to the Permanent Court of Arbitration in The Hague. It ruled in 2009. Both the NCP and the SPLM accepted the verdict. This cleared the way for the demarcation of the boundary on the ground.

² "Sudan like a powder keg, says AU", *BBC News Online*, 28 January 2010. He repeated the same phrase later in the year. See: "African Union chief renews fears about South Sudan independence", *Sudan Tribune*, 26 May 2010

³ See the UN map on page 3 of this paper – although note that the names of the three Equatoria states do not correspond with those on the map and Warrap is given as Warab.

⁴ For a map of the Abyei area, see: <http://www.enoughproject.org/files/u105/AbyeiMapPaper.jpg> [this and all subsequent links in this paper accessible at 2 June 2010]

⁵ They had originally been scheduled to take place in 2009.

NCP's main objective for the elections was, of course, to ensure that it would win, but almost as important was ensuring that its victory would be accepted both at home and abroad. This gave its political opponents some, albeit circumscribed, leverage.

The SPLM was also reluctant to support proposals for a further delay, probably because it knew it would win in the South and hoped that its acquiescence in an overall NCP victory at the national level would help to pave the way for subsequent NCP acquiescence in southern secession. It was encouraged by statements by President Omar al-Bashir in January that the NCP would accept secession, if this was the will of the people.⁶ But, mindful of the need to maintain cordial relations with the opposition parties of the North and to at least acknowledge past claims to be a genuinely national party, the SPLM acknowledged that conditions for the elections were indeed far from ideal.

The main northern opposition parties launched prolonged discussions over whether to participate in the elections, with which the SPLM periodically engaged as a member of an alliance called the Sudanese National Consensus Forces (SNCF), also known as the Juba Alliance. Indeed, in late March it briefly appeared as if the SPLM might reconsider and endorse a total boycott. However, a warning from President al-Bashir that the North-South referendum might then have to be cancelled produced a re-think.⁷ Instead, it shifted its focus towards calibrating its participation in the elections. First, it withdrew from the contest for the national presidency, leaving al-Bashir effectively unopposed. Then it withdrew its candidates from municipal and parliamentary polls in 13 of the 15 Northern states, leaving it contesting the election overwhelmingly in its Southern heartland.⁸ Most of the other main Northern opposition parties, including former Prime Minister Sadiq al-Mahdi's Umma Party, also withdrew from some or all of the polls, after last-minute calls for the elections to be postponed until May, to allow some key reforms to be introduced, were rejected by the NCP.

The SPLM's partial boycott left a major question-mark over the NCP's quest for electoral legitimacy as the day of the election arrived. The SPLM's disavowal of a total boycott was significant, although it denied that it had done some kind of deal with the NCP. One analyst called the move a "strategic hedge: hoping to keep the referendum on track while essentially signalling that they don't think the national election will be free and fair."⁹ However, another observer complained: "This was meant to be a moment of national inclusion. We are terribly far from that."¹⁰

Why was there so much criticism of the elections, prior to their being held, from opponents of the NCP – and, indeed, from a host of independent observers? Pre-election critiques covered a wide range of issues. General concerns were expressed about the impact of continuing restrictions on the ground on the freedom of movement, assembly and expression of political parties and candidates. For example, the SPLM complained that it had been told that it was not allowed to travel into the rural areas of Darfur.¹¹ Political parties also had to seek official permission to hold a meeting 72 hours (reduced to 36 in mid March) before it was due to take place. Fair and equitable access to the state broadcast media was also an issue. Grave doubts were also expressed about the fairness of the election laws and gerrymandered constituency boundaries. According to the Rift Valley Institute:

Constituency boundaries are often unclear, are unmapped, and have been determined inconsistently from state to state. Many villages have not been specifically assigned to

⁶ "Sudan 'would accept separation'", *BBC News Online*, 19 January 2010

⁷ "Sudan's south given poll warning", *BBC News Online*, 30 March 2010

⁸ "SPLM boycotts poll in north Sudan", *BBC News Online*, 4 April 2010

⁹ M. Fick, "More deal-making in Sudan", 1 April 2010. Available at: www.enoughproject.org/blogs/maggie-fick

¹⁰ "Conscript who took a bullet for his enemy can finally vote against him", *Guardian*, 10 April 2010

¹¹ "Analysis: Sudan's guessing game", *BBC News Online*, 2 April 2010

constituencies; in some case, notably North Darfur, entire sections of states have been left out of the delimitation process.¹²

There were also claims that the NCP was benefitting greatly from use of state resources in its campaigning, including through vote-buying. Others argued that the NCP – for example, through its manipulation of the census and the voter registration processes, not least in Darfur – had in effect already rigged the elections.¹³ Finally, many worried that the logistics would not be in place to conduct the poll efficiently.¹⁴ In an article published just before the poll, two academic experts wrote:

When the election comes it is depressingly likely that, quite apart from attempts at direct cheating [...] it will see multiple failures in procedure, driven by shortages of transport and personnel and material. The experience of many voters will once again be one of confusion, uncertainty, reliance on intermediaries – or, more simply, of exclusion.¹⁵

Concerns were also voiced that, in the South, the SPLM was harassing some of its political opponents in the elections, including the break-away party known as SPLM-Democratic Change, which it initially tried to ban. As many as 350 former SPLM candidates decided to stand as independents.¹⁶

Many observers were also concerned about the impact of violence and displacement on the credibility of the elections in the South, for example in Jonglei state and those states where the Lord's Resistance Army (LRA) continued to be active. However, concern in this regard was greatest on Darfur, where independent experts simply did not believe that credible elections were possible, despite some improvement in the security situation during 2009. Even if security had improved somewhat, over two million potential Darfuri voters continued to languish far from home in camps for the internally displaced, approximately 250,000 on the Chadian side of the border, with the vast majority unable and/or unwilling to register to vote. According to the 2008 census, the three Darfur states had 19 per cent of the country's total population, just less than the South.¹⁷

There were renewed efforts by the NCP in early 2010 to reach peace deals with Darfuri rebels that would help to improve the situation on the ground. These had some success. First, on 15 January, the Governments of the Sudan and Chad signed an Accord on the Normalisation of Relations, in which both governments agreed to end their support for rebel groups. While this was just the latest of many such agreements, all of which had in the past rapidly become 'dead letters', this time the agreement did have some impact on the ground. Chadian President Déby visited Khartoum in early February, his first visit since 2004, and a Chadian Ambassador was appointed subsequently to Khartoum. A long postponed joint

¹² As quoted in, "As elections arrive, the opposition shuns Omer", *Africa Confidential*, 2 April 2010

¹³ ICG, *Rigged elections in Darfur and the consequences of a probable NCP victory in Sudan*, Africa Briefing No. 72, 30 March 2010, p. 1 and passim. Available at: <http://www.crisisgroup.org/home/index.cfm?id=6601&l=1>

In January 2010, the SPLM finally swallowed its unhappiness about the way in which the 2008 census had been conducted, doing a deal on the issue with the NCP involving a post-election increase in the number of seats allocated to the South in the National Assembly.

¹⁴ "Sudan's president threatens to expel foreign observers", *Independent*, 23 March 2010

¹⁵ J. Willis and A. El Battahani, "We changed the laws': Electoral practice and malpractice in Sudan since 1953", *African Affairs*, Vol. 109, No. 435, April 2010, p. 212

¹⁶ "As elections arrive, the opposition shuns Omer", *Africa Confidential*, 2 April 2010

¹⁷ ICG, *Rigged elections in Darfur and the consequences of a probable NCP victory in Sudan*, Africa Briefing No. 72, 30 March 2010, p. 1. In February 2010, the SPLM finally swallowed its unhappiness about the way in which the 2008 census had been conducted, doing a deal with the NCP whereby it abandoned its objections in return for future enhanced representation for the South in the National Assembly.

border monitoring force also began to deploy along the border between the two countries.¹⁸ Following the 15 January Accord, the Government of Chad immediately requested that work should begin to ensure that the UN force operating on the Chad-Sudan border, the Mission in the Central African Republic and in Chad (MINURCAT), withdrew from the border by 15 March, on the grounds that it had been ineffective and was no longer needed. Subsequent negotiations led to an agreement that the mandate of the military component on the border would cease to include the protection of civilians and that the entire military component would withdraw by the end of 2010. It was agreed that its civilian component would continue beyond that date.¹⁹

On 20 February the Sudanese Government signed a 'Framework Agreement' and a temporary ceasefire with the largest insurgent group operating in Darfur, the Justice and Equality Movement (JEM). It was brokered by the Chadian Government, which has been a strong supporter of JEM in the past. This was supposed to be a precursor to a wider political agreement between the two parties by a 15 March deadline, but talks stalled when JEM called for the elections to be postponed, which the Government rejected. Nonetheless, the ceasefire held. A significant number of JEM prisoners also had death sentences against them reversed, including the half-brother of JEM's leader, Khalil Ibrahim, and 57 were subsequently set free.

In parallel, long-running talks continued in Doha, Qatar, that were designed to achieve greater unity amongst other anti-government insurgent groups based in Darfur, all of them factions of the Sudanese Liberation Army (SLA), as a basis for a peace deal between them and the Government. Some of the factions came together as the Liberation and Justice Movement (LJM), led by Tigani Sessi, and on 18 March this new alliance also signed a 'Framework Agreement' and temporary ceasefire with the Sudanese Government.

JEM, arguing that other rebel groups lacked support and legitimacy, opposed these parallel talks. The mediators said that they planned to merge the two processes as part of a final peace settlement for Darfur. Despite claims by US special envoy to Sudan, Scott Gration, that the LJM represented "most of the non-JEM rebels", others were more sceptical.²⁰ Still unwilling to do a deal was the faction of the SLA, led by Abdul Wahid (SLA-AW), which rejected the 2006 Darfur Peace Agreement and has refused to participate in subsequent peace talks. Other rebels that did not sign a peace deal were members of the 'Roadmap Group'. This included SLA-Unity, which is led by 19 commanders who split from Abdul Wahid in 2006.

The SLA-AW has come to be viewed by many in the international community as a major obstacle to peace in Darfur but Wahid still has considerable support amongst the displaced in the IDP camps. In February 2010, the Sudanese Government launched a major air and ground offensive against this faction, dramatically bringing to an end a period of relatively low violence in Darfur, through what looked to some like an attempt to create a 'military solution' to Abdul Wahid's alleged intransigence. Hundreds of civilians may have died in and around Jebel Marra and there are reports that over 100,000 people have been displaced in what was the largest-scale military operation since UNAMID's mandate began at the beginning of 2007. Outbreaks of violence continued in and around Jebel Marra during the run-up to the

¹⁸ *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur*, S/2010/213, 28 April 2010, para 10

¹⁹ *Report of the Secretary-General on the United Nations Mission in the Central African Republic and in Chad*, S/2010/217, 29 April 2010, paras 51-57. MINURCAT will also withdraw its military component from the Central African Republic by the end of 2010. (paras 77-78)

²⁰ "Recent two-week trip to Chad, Sudan, Qatar and Rwanda", press conference by Scott Gration, 4 March 2010. Available at: <http://www.state.gov/s/sudan/rem/2010/137833.htm>

elections.²¹ UNAMID was also the target of a number of attacks. Overall, March saw a major spike in levels of violence in Darfur.²²

There were also reports that tensions between the NCP and opposition parties were increasing in Eastern Sudan as the elections approached. Little progress was made during early 2010 towards implementing outstanding elements of the Eastern Sudan Peace Agreement, which was signed in October 2006.²³

2.2 The elections: Processes and candidates²⁴

The electoral system

Victory in the presidential contests of Sudan and Southern Sudan required over 50 per cent of the vote, with a run-off to be held if necessary. Victory in the elections for state governorships would go to the candidate who received the largest share of the vote.

There were 450 seats in the National Assembly up for election. A political party needed to score at least 4 per cent of the vote to be eligible for seats. 60 per cent of the seats in the National Assembly were to be won on a 'first-past-the-post' basis. 40 per cent were to be won under a system of proportional representation, with 25 per cent of those seats coming from women-only lists, the rest from a general list, with both lists compiled by the competing political parties.²⁵

There were 170 seats contested in the Southern Sudan Legislative Assembly. There were 48 seats up for election in each of the 26 State Assemblies, apart from South Kordofan (54 – however, its State Assembly and Governor elections were postponed) and Khartoum (84).²⁶ The electoral system for the Southern Sudan Legislative Assembly and the State Assemblies was similar to that being used for the National Assembly. Each State Assembly, after the elections, was empowered to elect two members to the Council of States, Sudan's 'second chamber' at the national level.

Overall, Northern voters were expected to fill in eight separate ballot papers and Southern voters 12. Observers noted that an estimated 80 per cent of Southern men are unable to read, 92 per cent of women.

As the above account illustrates, the elections at both the national legislative and state levels were enormously complex. One analyst called this complexity "the regime's secret weapon".²⁷ However, not every observer took an entirely negative view of the electoral process. The Rift Valley Institute, while warning that the system was "too ambitious", stated:

Sudan's electoral design has assets as well as shortcomings. By combining elements of majoritarian, plurality, and proportional representation systems, the hybrid system enables power-sharing compromises between the national government and the

²¹ J. Flint, "The war for Jebel Marra", 11 March 2010. Available at: <http://blogs.ssrc.org/sudan/2010/03/11/the-war-for-jebel-marra>

²² *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur*, S/2010/213, 28 April 2010, para 29

²³ *Report of the Secretary-General on the UN Mission in the Sudan*, UN Doc S/2010/168, 5 April 2010, para .36

²⁴ For a fuller, comparative, discussion of Sudan's electoral process, see: *Electoral designs: Proportionality, representation and constituency boundaries in Sudan's 2010 elections*, Rift Valley Institute, March 2010. Available at: <http://www.riftvalley.net/resources/file/Electoral%20Designs%20%20Report%20on%20elections%20in%20Sudan.pdf>

²⁵ ICG, *Rigged elections in Darfur and the consequences of a probable NCP victory in Sudan*, Africa Briefing No. 72, 30 March 2010, p. 3

²⁶ Elections to the State Assembly in Gezira State were also postponed.

²⁷ "As elections arrive, the opposition shuns Omer", *Africa Confidential*, 2 April 2010

Government of Southern Sudan. It also extends new levels of representation to Darfur, Southern Sudan, and other marginalized regions. It mitigates the possibility of post-election violence by making it difficult for one party to capture, legitimately or not, a majority of the National Assembly seats. Finally, the new system allows for a significant increase in the number of women to be elected into the National Assembly and the State Legislative Assemblies.²⁸

The presidential candidates

National

The main presidential candidates for the national elections were announced in early 2010. Below are the names of the six most prominent candidates, including three who withdrew before the elections were held.

Omar al-Bashir (NCP)

Yassir Arman (SPLM) [withdrew]

Sadiq al-Mahdi (Umma Party) [withdrew]

Abdullah Deng (Popular Congress Party – PCP)

Hatim al-Sir (Democratic Unionist Party – DUP)

Mohammed Ibrahim Nugud (Sudan Communist Party – SCP) [withdrew]

The fact that the SPLM's leader, Salva Kiir Mayardit, decided not to stand for the national presidency suggested to some that the SPLM had given up on North-South unity. However, Yassir Arman was a Khartoum-based senior replacement with strong ties to the northern opposition. He and other SPLM leaders were briefly detained by the authorities in December 2009 at a demonstration. The PCP is the political vehicle of Hassan al-Turabi, a former founder of the NCP. However, its candidate, Abdullah Deng, a southerner, was not a well-known political figure. Al-Mirghani's DUP, while nominally part of the 'northern opposition', has been willing in the past to do business with the NCP.

Southern Sudan

Only two candidates came forward for the presidency of Southern Sudan. They were:

Salvar Kiir Mayardit (SPLM)

Lam Akol (SPLM-Democratic Change)

Lam Akol is a former national Minister of Foreign Affairs in the post-2005 GNU. While he was originally in the SPLM, he became progressively more and more semi-detached, to the point where in his final years in office, he was viewed as closer to the NCP than the SPLM. The SPLM accused the NCP of sponsoring the SPLM-Democratic Change.

Role of the international community

The CPA stipulated that the elections should constitute a crucial moment in the process of "democratic transformation" in Sudan. However, by the time that they came around, foreign governments were noticeably reluctant to talk in these terms. Nevertheless, there was no

²⁸ For a fuller, comparative, discussion of Sudan's electoral process, see: *Electoral designs: Proportionality, representation and constituency boundaries in Sudan's 2010 elections*, Rift Valley Institute, March 2010. Available at: <http://www.riftvalley.net/resources/file/Electoral%20Designs%20-%20Report%20on%20elections%20in%20Sudan.pdf>

appetite amongst the main foreign supporters of the elections for postponing them, as some local and international civil society groups called for. The US envoy, Scott Gration, intervened personally to try and persuade the SPLM and northern opposition parties involved in the partial boycott not to withdraw co-operation. The reactivated CPA 'Troika' – those countries heavily involved in the original negotiation of the CPA and its co-guarantors, namely Norway, the US and the UK – issued a statement, following the announcement by the SPLM that it was withdrawing from the national presidential election, calling for the polls to proceed “peacefully and credibly”.²⁹ President al-Bashir was quoted as saying on 3 April: “Even America is becoming an NCP member. No one is against our will.”³⁰

Foreign governments or bodies were prohibited under Sudanese law from directly funding the campaigning activities of Sudanese political parties. Western governments supported preparations for the elections mainly through funding for the UN Development Programme's 'elections basket fund'.³¹

Election observation

The European Union (EU) sent a team of 130 people to observe the elections. However, on 7 April it withdrew its monitors from Darfur due to the security situation in the region. The head of the mission, Veronique de Keyser, stated:

In some parts of Darfur the violence is terrible. The humanitarians cannot access this area. And if aid cannot access, we cannot access. We can only have a very partial view, so how can we observe properly in Darfur? The credibility of the mission is at stake.³²

According to the UN, 31 international observers were present in Darfur over the election period, along with a larger number of domestic observers.³³

The EU mission was joined for a brief period by a delegation from the European Parliament.

The US-based Carter Center had 12 long-term observers and a team of 70 short-term observers for the election period.³⁴ In March, President al-Bashir threatened to expel foreign election observers after the Center called for a “minor” postponement of the elections.³⁵ The Center also supported a separate domestic observation programme involving an estimated 7,000 observers. These domestic observers included TAMAM, a civil society group composed of 120 organisations, the Civic Forum, which coordinated the work of 56 organisations, and Justice Africa.³⁶

The AU sent a 50 person strong monitoring team. The Intergovernmental Authority on Development (IGAD), whose membership comprises the countries of the Horn of Africa, the Arab League and Japan also sent observer teams.

2.3 Results and reaction

The elections took place between 11 and 15 April. Voting was extended by three days to cope with the complexities of carrying out the poll. The preliminary results of the national and

²⁹ “As elections arrive, the opposition shuns Omer”, *Africa Confidential*, 2 April 2010

³⁰ “An election victory that widens the North-South gap”, *Africa Confidential*, 16 April 2010

³¹ The UK Government provided a total of £12.5 million to this fund. HC Deb 27 January 2010 c895W

³² “EU pulls Darfur poll observers over security fears”, *Reuters*, 7 April 2010

³³ *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur*, S/2010/213, 28 April 2010, para 22

³⁴ “Sudan’s president threatens to expel foreign observers”, *Independent*, 23 March 2010

³⁵ Ibid

³⁶ “The position of the independent civil society network on the electoral process”, www.ssrc.org, 19 April 2010

Southern Sudan presidential elections were announced on 26 April. The outcome, in terms of the five most popular candidates, was as follows:³⁷

Sudanese national presidential election results¹

Candidates - Parties	Votes	%
Omar Hassan al-Bashir – National Congress	6,901,694	68.24%
Yasir Arman – Sudan People’s Liberation Movement	2,193,826	21.69%
Abdullah Deng Nhial – Popular Congress Party	396,139	3.92%
Hatim Al-Sir – Democratic Unionist Party	195,668	1.93%
Al-Sadiq Al-Mahdi – Umma Party	96,868	0.96%

¹Source: *Sudan Tribune*

South Sudanese presidential election results¹

Candidates - Parties	Votes	%
Salva Kiir – Sudan People’s Liberation Movement	2,616,613	92.99%
Lam Akol – Sudan People’s Liberation Movement for Democratic Change	197,217	7.01%

¹ Source: *Sudan Tribune*

The elections went ahead in Darfur, with the exception of the Jebel Marra area, where there had recently been heavy fighting, and the JEM-controlled Jebel Moon areas. While the process in Darfur was, indeed, massively flawed, there were no major incidents of violence in Darfur during the voting period.³⁸

As the above results show, some of those candidates who withdrew from the national presidential race nonetheless received significant shares of the popular vote. The incumbent, President Al-Bashir, won a large majority of the vote in the North but is estimated to have won only about 10 per cent of the vote in the South.³⁹

The election results for the National Assembly are still being finalised at the time of writing. Below are extracts from an analysis of these results published on 26 May:

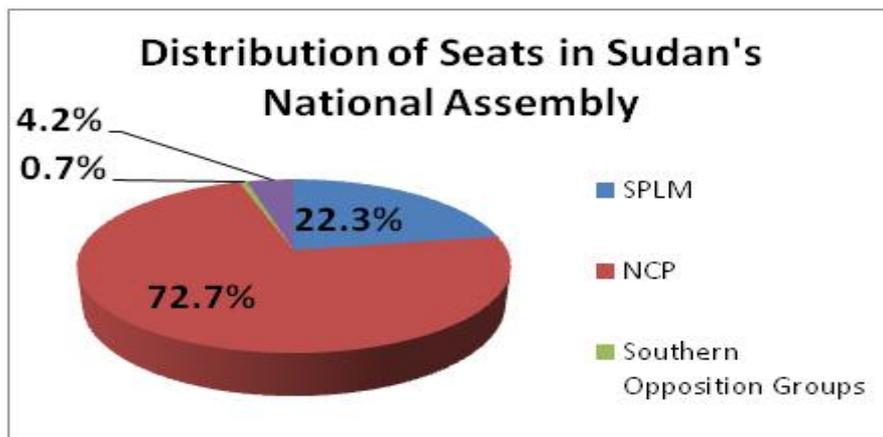
In Darfur, the NCP won 75 (87 percent) of the National Assembly seats, while the remaining ten seats were divided between the Umma Federal Party, the Popular Congress Party, the DUP and Independent candidates. In West Darfur, NCP dominance was particularly striking; the party won every National Assembly seat and closed the door on any expectations that there might be a distribution of power in the region. [Note: Constituency #1 (Kulbus) results have not been tallied due to the elections being postponed there.] One noteworthy exception to the NCP sweep occurred in South Darfur, where the PCP won three seats from the women’s list, which

³⁷ Tables taken from Wikipedia at: http://en.wikipedia.org/wiki/Sudanese_general_election,_2010

³⁸ *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur*, S/2010/213, 28 April 2010, para 79

³⁹ J. Temin, “What we don’t see in Sudan”, www.ssrc.org, 10 May 2010

appear to be the only opposition victories from the proportional representation lists in Darfur.



*Note: There are still six constituencies that have not tallied their results, but this is unlikely to change the percentages by more than a half percent.

[...] Northern opposition parties did not fare well in this election. Under the interim-constitution, they were allocated 14 percent of the National Assembly seats. This number will soon be reduced to 4.2 percent since the opposition parties only won 19 seats in all of the northern states.

In the south, the SPLM won every seat but four; the NCP won one seat, SPLM-DC won two and an independent candidate won another. Therefore, the southern non-SPLM opposition parties will experience a significant reduction in their influence in the National Assembly as well. Under the interim-constitution, southern non-SPLM opposition parties were given 27 seats (6 percent), compared to the 3 seats (.05 percent) they will have soon.

The NCP is the obvious winner in this election, winning approximately 73 percent of the National Assembly seats. This strong majority allows the party to pass whatever legislation it wishes without the chance of it being blocked. More interestingly, it almost gives the party the ability to amend the constitution without opposition. This requires 75 percent of National Assembly votes, meaning that the NCP is only 15 votes shy of meeting this threshold.

It is worth noting, however, that several of the opposition groups, including the Umma Federal Party, which won a total of four seats in Darfur and Al-Gezira, are frequently referred to as 'satellite parties' of the NCP. If this is true, and considering the fact that there are still six constituencies that have not reported their results, the NCP could be within a handful of seats from reaching the 75 percent threshold.

Some have argued that, as well as being a treaty to end war, the Comprehensive Peace Agreement helped shepherd Sudan into the nascent stages of multi-party development, providing fertile ground for democratic advancement and party cooperation. This argument is becoming more difficult to make in the wake of Sudan's legislative and presidential elections. Sudan is now better classified as a two-party state where democracy takes a back seat to the authoritarian regimes that control their

respective regions. Opposition parties throughout the entire country now hold less than five percent of the seats in the National Assembly.⁴⁰

In terms of elections for state governorships, SPLM-approved candidates dominated in the South, with the sole exception of Central Equatoria state, where an independent won the governorship. The SPLM's candidate won the governorship in Blue Nile state but the movement was unable to win a majority in the State Assembly elections.⁴¹ Apart from Blue Nile state, NCP-approved candidates dominated governorship elections in the North. A comprehensive list in English of state-level election results for State Assemblies is not, to our knowledge, publicly available as yet.

As far as the NCP was concerned, the phase of elections was now over. However, others disagreed. The ICG reiterated its pre-election call for any comprehensive peace deal in Darfur to provide for a new census, voter registration process and another round of national elections. It said that this would, in all probability, have to take place after the North-South referendum has been held.⁴² As stated above, state-level elections are also yet to be held in South Kordofan. Polling was also cancelled in 33 constituencies due to logistical problems. Voting in these constituencies must take place by 10 June.⁴³

On 15 April, the Spokesperson for the UN Secretary-General was the first international stakeholder to comment on the elections. He congratulated all those who had participated but referred to "reported irregularities and opposition boycotts" and "logistical challenges". He also called for dialogue and "ongoing implementation of the Comprehensive Peace Agreement."⁴⁴

The EU and Carter Center missions published preliminary statements on 17 April. The EU said that the elections showed "significant deficiencies against international standards" but laid the groundwork for "future democratic progress."⁴⁵ The Carter Center said that the elections fell "short of meeting international standards and Sudan's obligations for genuine elections in many respects", but added that: "Despite their observed weaknesses, the elections are a CPA benchmark and their conduct allows the remaining provisions of the agreement to be implemented."⁴⁶

On 18 April, AU observers were reported to have announced that the elections had been "free and fair, to the best of our knowledge we have no reason to think the contrary." They added that they had not found evidence of fraud. The IGAD mission's verdict was similarly positive. Arab League observers were reported to have stated that the elections did not meet international standards, "but are a big step forward compared to other countries in the region."⁴⁷

On 19 April, the Sudan Troika (UK, US and Norway) issued a joint statement, noting "initial assessments of the electoral process from independent observers, including the judgement that the elections failed to meet international standards" and calling on "the Sudanese

⁴⁰ M. Gustafson, "An analysis of the National Assembly results for Sudan's 2010 elections", www.ssrc.org, 26 May 2010. Available at: <http://blogs.ssrc.org/sudan/2010/05/26/analysis-of-national-assembly/>. For a tabular version of the election results by the same analyst, see: <http://marcgustafson.com/Election%20Results.pdf>

⁴¹ H. Mohammed, "South Kordofan: The next challenge", www.ssrc.org, 28 April 2010

⁴² ICG, *Rigged elections in Darfur and the consequences of a probable NCP victory in Sudan*, Africa Briefing No. 72, 30 March 2010, p. 13

⁴³ CPA Monitor, April 2010, p. 9

⁴⁴ "Secretary-General congratulates participants in Sudan's national elections", UN press release, SG.SM/12844, 15 April 2010

⁴⁵ EU Election Observation Mission, "Preliminary Statement", 17 April 2010

⁴⁶ Carter Center Election Observation Mission in Sudan, 17 April 2010

⁴⁷ "Sudan polls 'free and fair' considering context: AU", *Agence France Presse*, 18 April 2010

authorities to draw lessons from these elections and from independent assessments of them, to ensure that future elections and the forthcoming referenda do not suffer from the same flaws.”⁴⁸

In sum, while all of the pre-election criticisms were upheld in the verdicts of Western governments on the conduct of the elections themselves, the validity of the results was not challenged and there was consensus that Sudan should move as scheduled towards the final phase in the implementation of the CPA: the North-South and Abyei referenda.

Sudanese independent civil society networks also issued a statement on 19 April. It detailed a host of “major deficiencies”, including the fact that the ink used to mark those who voted was easily removed. In contrast to the foreign observation missions, it called, amongst other things, for a “full review and reconsideration of the entire electoral process, including the results. The establishment of the new government should not be based on these fraudulent results” and a “reorganisation of genuine elections as quickly as possible following Southern Sudan’s referendum on self determination and the achievement of peace and security in Darfur. The networks also called for the dismantling of the National Election Commission.”⁴⁹ Speaking in May, a senior civil society activist argued:

Due to their desire to see the referendum for Southern independence go through next year, the international community turned a blind eye to all the fundamental issues in this election and in doing so indirectly supported the NCP.⁵⁰

On 10 May the Carter Center issued another preliminary statement, claiming that “Sudan’s vote tabulation process was highly chaotic, non-transparent and vulnerable to electoral manipulation. As a result the Center is concerned about the accuracy of the preliminary results announced by the National Election Commission [...]”⁵¹

While the announcement of the preliminary results was being awaited, video evidence also emerged of ballot stuffing in Red Sea state. The video, which had not been independently verified, was circulated by the Sudan Democracy First Group, a coalition of trade unions and activists. Several Sudanese opposition parties hailed it as confirmation that the elections had been rigged. NCP leaders dismissed it as a fake.⁵² After the preliminary result in the presidential election in the South had been announced, the defeated candidate Lam Akol alleged that the vote had been rigged and vowed to challenge the result in the courts.⁵³

2.4 Other developments during the election period

On 1 January 2010 Ibrahim Gambari took over as the new UNAMID Joint Special Representative. Haile Menkerios became the new Special Representative of the UN Secretary-General in Sudan from 1 March. An Eritrean, he succeeds his Pakistani predecessor, Ashraf Qazi. He joined the crowded field of international envoys on Sudan, which also includes Scott Gration, the US Special Envoy, Thabo Mbeki, head of the AU’s Panel on Darfur and the joint AU-UN mediator on Darfur, Djibrill Yipene Bassolé. The UK special representative for Sudan under the previous Labour administration was Michael O’Neill.

⁴⁸ “Joint statement by the Sudan Troika on the Sudanese elections”, 19 April 2010

⁴⁹ “The position of the independent civil society network on the electoral process”, www.ssrc.org, 19 April 2010

⁵⁰ “Sudan: The elections and beyond. An interview with Asha Elkarib”, www.pambazuka.org, Issue 481, 13 May 2010

⁵¹ “Carter Center reports widespread irregularities in Sudan’s vote tabulation and strongly urges steps to increase transparency”, Statement, 10 May 2010

⁵² “Sudan video ‘shows poll rigging’”, *BBC News Online*, 20 April 2010

⁵³ “South Sudan rival challenges poll”, *BBC News Online*, 27 April 2010

In February, an Ethiopian tactical helicopter unit was deployed in Darfur, which partially mitigated the severe shortage in this sphere from which UNAMID had suffered since it was first deployed in January 2008.⁵⁴ An international donor conference on development and reconstruction in Darfur was held in Cairo in March under the auspices of the Organisation of the Islamic Conference. US \$850 million was pledged.⁵⁵

Finally, the International Criminal Court (ICC) announced in February 2010 that it would reconsider whether to bring genocide charges against President Omar al-Bashir in connection with events in Darfur.⁵⁶ In 2009, it had decided not to do so. However, he was charged at the time with war crimes and crimes against humanity. In the same month, the ICC dropped charges, on the grounds of insufficient evidence, against Bahar Idriss Abu Garda, a Darfuri rebel commander, lodged in connection with an attack against the African Union Mission in Sudan (AMIS) at Haskanita in September 2007.⁵⁷

⁵⁴ *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur*, S/2010/213, 28 April 2010, para 65

⁵⁵ *Ibid.*, para 44

⁵⁶ ICC, "Al-Bashir case: The Appeals Chamber directs Pre-Trial Chamber 1 to decide anew on the genocide charge", press release, 3 February 2010

⁵⁷ ICC "Pre-Trial Chamber 1 declines to confirm the charges against Bahar Idriss Abu Garda", press release, 8 February 2010

3 Preparing for the January 2011 referendums and their aftermath

The April elections were crucial to NCP hopes of establishing greater domestic and international legitimacy. These hopes were only partially realised. However, its hold on power in the North did appear to have been reinforced.

The January 2011 referendums come next. This is the part of the CPA which really matters to the SPLM. While the SPLM will continue to expend much energy on managing its extremely difficult relationship with the NCP so as to protect the referendum on unity or secession, it will need to focus, in the months running up to January 2011, much more strongly on shoring up and broadening its political constituency in the South, as evidenced by the growing incidence of so-called ‘tribal violence’, often in reality shaped by political factors, and divisions within its ranks that deepened during the elections.⁵⁸ A number of “renegade” SPLA commanders are openly challenging the authority of the SPLM, including former Deputy Chief of Staff, General George Athor Deng.⁵⁹ Observers have argued that the SPLM’s efforts to enforce disarmament measures at the local level run the danger of fuelling, rather than dousing, levels of violence in the South.⁶⁰ At the same time, the SPLM continues to build up its military capabilities in case the NCP ultimately seeks to sabotage the referendum or reject its results, so increasing the volume of arms in the region.

The December 2009 Southern Sudan Referendum Law, amongst other things, agreed as ‘50 per cent plus one’ the majority required to trigger secession. It was also agreed that a 60 per cent turn-out was required to render the verdict valid. Southerners living in the north will be allowed to vote in the North if they were born after independence in 1956. However, those born before that date will have to register and vote in the south. These issues had been a long-term sticking point between the NCP and the SPLM and took years to resolve.

Then there are what are known as the ‘Three Areas’, all of them located on the border between North and South and hotly contested: Abyei, South Kordofan (including the Nuba Mountains) and Blue Nile. The planned referendum in oil-rich Abyei has the potential by itself to trigger renewed large-scale conflict. There are regular outbreaks of violence at the local level between the Missiriya and the Dinka. The people of South Kordofan and Blue Nile states have been offered “popular consultations” about future governance arrangements as part of the North under the CPA

The same arrangements on majority voting and turn-out as those for the Southern Sudan Referendum Law were agreed in the Abyei Referendum Law. However, no agreement was reached as to who would be allowed to vote in Abyei. The Missiriya Arab pastoralist group rejected the Abyei Referendum Law on the grounds that it did not guarantee them a vote. Opponents argue that they are not genuinely resident in Abyei and are being used by the NCP as a ‘trojan horse’ in the run-up to referendum. The decision on who will be able to vote has been left to a future Referendum Commission, which – eight months away from the vote – is yet to be established.

A similar Commission is to be established for the North-South referendum. It, also, is yet to be established. There must also be a new voter registration process for both the Southern Sudan and Abyei referendums.

It is probable that many of the people of South Kordofan and Blue Nile states, where the SPLM operated and had significant support during the civil war, will not have been aware

⁵⁸ *Report of the Secretary-General on the UN Mission in the Sudan*, UN Doc S/2010/168, 5 April 2010, para .40-41

⁵⁹ “SPLA clashes with a renegade Colonel in Unity state”, *Sudan Tribune*, 2 June 2010

⁶⁰ *Ibid.*, para .45

until comparatively recently that, unlike the people of Abyei, they are not entitled to a referendum on whether to join the North or South. There is reported to be considerable scepticism about the credibility of the “popular consultations” that are on offer under the CPA.⁶¹ These are supposed to be conducted by the State Assembly. However, as already mentioned, the elections for Governor and the State Assembly in South Kordofan state were cancelled following disputes over the validity of the 2008 census results. It has been agreed that a new census of the state will be carried out before elections are held.⁶² This appears to greatly reduce the scope for meaningful popular consultations.⁶³

In a more hopeful sign, in March 2010 it was announced that the NCP and SPLM had agreed on a structure for negotiations about post-referendum arrangements. There will be bilateral talks on a number of thematic issues, supported by a Secretariat.⁶⁴

3.1 Other developments since the April elections

Within weeks of the elections, violence in Darfur flared up once again. The ‘peace process’ between the NCP and JEM fell apart. There was initial speculation that this might presage a collapse in the January Accord between the Governments of Chad and Sudan. However, it quickly became clear that this was not the case.⁶⁵ In mid May, the Government announced that it had taken the JEM stronghold of Jebel Moon. There was criticism of the Government’s use of aerial bombing and local militias in the offensive. UNAMID and humanitarian organisations were denied access to the area.⁶⁶ In a move that many viewed with irony, the Government also asked Interpol to issue an arrest warrant against JEM’s leader, Khalil Ibrahim, for war crimes. JEM threatened “all-out war” if he was arrested.⁶⁷ Ibrahim was subsequently refused entry to Chad from Libya. The Chadian authorities sent him back to Libya while confiscating his passport. The NCP says that it will not allow him to return to Darfur, although it might agree to him travelling to Doha to take part in peace talks.⁶⁸

In late May it emerged that there are plans for peace talks to resume in Doha on 6 June. As things stand, JEM will play no part in these talks.⁶⁹ The NCP has said that it hopes that a final peace agreement can be agreed with the LJM before the end of June.⁷⁰ As discussed above, there is little or no chance that such a deal will by itself bring the conflict in Darfur to an end.

In mid May the leader (and estranged former sponsor) of the NCP, Hassan al-Turabi, was detained after he alleged that the April elections had been rigged. His alleged links to JEM were also widely believed to be a factor in his detention. He remains in detention at the time of writing.

There was a brief mutiny by soldiers in support of a defeated candidate for the governorship near the hotly contested town of Malakal in Jonglei state in late April. The candidate, former SPLA Chief of Staff, General George Athor Deng, had run as an independent after failing to win the nomination of the SPLM. The mutiny was put down, but at least eight people died.⁷¹

⁶¹ “The Nuba mountains – straddling the north-south divide”, *Irinnews.org*, 13 November 2009

⁶² HC Deb 24 March 2010, c302W.

⁶³ *Report of the Secretary-General on the UN Mission in the Sudan*, UN Doc S/2010/168, 5 April 2010, para .31

⁶⁴ *Ibid.*, para .23

⁶⁵ J. Smith, “Chad and Sudan: is the proxy war over?”, www.ssrc.org, 7 May 2010

⁶⁶ “Recent offensives in Darfur”, US State Department, press release, 18 May 2010

⁶⁷ “Darfur JEM rebels: New war threat”, *BBC News Online*, 11 May 2010

⁶⁸ “JEM leader Khalil Ibrahim stopped in Chad”, *BBC News Online*, 19 May 2010; “Sudan peace negotiator rejects Khalil’s return to Darfur region”, *Sudan Tribune*, 2 June 2010

⁶⁹ “Darfur peace talks to resume in June”, *Sudan Tribune*, 26 May 2010

⁷⁰ “Sudan says want peace agreement in Darfur before end of June”, *Sudan Tribune*, 25 May 2010

⁷¹ “Mutinous troops attack Sudan army”, *BBC News Online*, 30 April 2010

There were clashes between supporters of another renegade SPLA commander in Unity state in late May.⁷²

In late April it was announced that the technical committee tasked with demarcating the boundary between North and South had begun the “penultimate stage” of its work: mapping the work it has done on paper ‘on the ground’. The committee is running nearly five years late in completing its work.⁷³

In May the LRA resumed its violent attacks in the South. On 24 May, US President Barack Obama signed the *Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act 2009* into law. The Act, amongst other things, will provide additional US support for efforts to end the LRA’s violent attacks in southern Sudan and other neighbouring countries.⁷⁴

In late April the ICC rejected an appeal by the Chief Prosecutor, Luis Moreno Ocampo, to overturn its decision in February to dismiss charges against a rebel leader, Bahar Idriss Abu Garda, accused of directing an attack against AU peacekeepers in 2007.⁷⁵ On 26 May, the ICC reported Sudan to the UN Security Council for its “lack of co-operation” – specifically, its failure to enforce arrest warrants issued in 2007 – in the cases of former Minister of State for the Interior Ahmed Harun and *Janjaweed* militia leader Ali Kushayb. Both men have been accused of war crimes and crimes against humanity in the context of the war in Darfur.⁷⁶ Ocampo has asserted that a growing number of states have said that they would arrest President al-Bashir and hand him over to the ICC if he enters their jurisdiction.⁷⁷

On 27 May, President al-Bashir was formally sworn into office again. While senior UN officials based in Sudan and a number of Arab, African and Asian dignitaries attended the ceremony, Western governments did not send representatives.⁷⁸ On 30 May, al-Bashir dissolved the GNU. A new government is now in the process of being formed. Senior NCP officials have said that they expect that it will involve the SPLM and those Darfuri groups that have signed peace deals, but talks could founder over the allocation of ministries. Salva Kiir Mayardit was sworn in as the first elected president of Southern Sudan on 21 May.

During a visit to Darfur at the end of May, the UN’s top humanitarian official, John Holmes, described the situation in the region as remaining serious. He regretted the fact that access to eastern Jebel Marra was impossible due to insecurity. He also visited Southern Sudan, where he called the combination there of food insecurity, internal displacement and “inter-tribal violence” a “recipe for disaster”.⁷⁹

3.2 Post-referendum, post-CPA scenarios

The CPA threw down a challenge to those in Sudan, including the NCP, opposed to Southern secession: to “make unity attractive”. In this they have failed. By the end of 2009, the ICG was arguing that, given that secession had become virtually inevitable, an additional “CPA Protocol” was needed in order to manage the process of “peaceful separation and the

⁷² “SPLA clashes with a renegade Colonel in Unity state”, *Sudan Tribune*, 29 May 2010

⁷³ “Sudan resumes demarcation of north-south border”, *Sudan Tribune*, 29 April 2010

⁷⁴ “President Obama signs US law to help Uganda fight LRA rebels”, *Sudan Tribune*, 26 May 2010

⁷⁵ “ICC rejects appeal to overturn dismissal of charges against Darfuri rebel leader”, *UN News Service*, 26 April 2010

⁷⁶ ICC press release, ICC-CPI-20100526-PR528, 26 May 2010. See also part 1.4 above.

⁷⁷ “Sudan’s al-Bashir will soon have nowhere to hide, says ICC prosecutor”, *Daily Monitor* (Uganda), 2 June 2010

⁷⁸ “Sudan’s Omar al-Bashir is sworn in as president”, *BBC News Online*, 27 May 2010

⁷⁹ “UN relief chief sounds alarm on Darfur’s dire humanitarian situation”, *UN News Service*, 30 May 2010

stability of the two independent states [...]”.⁸⁰ It called on the international community to make this its top priority and to appoint a “joint mediator of international stature”, backed by all the international bodies and governments involved with Sudan, to this end.⁸¹ The joint mediator would reflect an approach that brings together Western governments, the AU and other key stakeholders such as IGAD. The ICG argues that this role cannot effectively be played by Scott Gration, the US envoy to Sudan, who has over the last year been leading the international effort, on the grounds that he has become too close to the ruling NCP, or perceived as such.⁸² There is no sign as yet of this option being taken up.

The CPA expires in July 2011. In the event of a vote for an independent Southern Sudan, a successor agreement will indeed have to be reached, even if it were simply to reiterate many of the CPA’s provisions.

A recent press article sets out some of the key issues which a new accord will need to include:

Should the south choose to separate, the two sides will have to negotiate over various key issues:

Borders - Five major border areas are in dispute. The first, and perhaps most potentially explosive, is around the oil-producing region of Abyei. The region will decide in a separate referendum also in January whether to join the south or the north. The borders were outlined in a July 2009 ruling by the Permanent Court of Arbitration at The Hague, but demarcation has stalled. At the same time, the northern Misseriya community, largely drawn out of Abyei under the new borders, has denounced the ruling.

According to SPLM secretary-general, Pagan Amum, four other areas are in dispute: the northern-most border separating Renk county in Upper Nile from the north’s White Nile state, the borderline running north-south between the south’s Unity state and the north’s Southern Kordofan (this will determine who controls the Heglig oil field), whether the Bahr al-Arab river forms the exact border between the south’s Bahr el-Ghazal and Darfur in the north, and which river forms the exact western-most dividing line between Western Bahr el-Ghazal and Southern Darfur.

Oil - An estimated 82–95 percent of the oil fields are in the south (depending on where the border is drawn). Oil revenue accounts for 98 percent of Southern Sudan’s government revenue, and 60 percent of the national budget (according to 2008 figures). The sole export route for the landlocked south is a pipeline running to the north to Port Sudan on the Red Sea. Under the CPA, the two sides divide proceeds from oil pumped in the south. They will have to negotiate how to share oil revenue, as well as any user fees levied against the south for using the pipeline and refineries. The two parties must also negotiate how to honour current oil contracts.

Water - Under a 1929 agreement between Egypt (which had control over Sudan) and Britain, and a 1959 agreement between Egypt and Sudan, they control up to 90 percent of the water. Will Southern Sudan recognize these old treaties, or will it work with Nile basin countries in eastern Africa to work towards a “fair” accord? If it honours the colonial pacts, as it has indicated to the Egyptians, the south must then negotiate with Khartoum over what percentage of the 18.5 billion cubic metres of water designated to Sudan it can claim.

⁸⁰ ICG, *Sudan: Preventing implosion*, Africa Briefing No. 68, 17 December 2009, p. 13

⁸¹ Ibid

⁸² Ibid., p. 16

Nationality - The fate of southerners living in the north and northerners living in the south has to be negotiated. Questions of citizenship and rights will have to be addressed, as well as ease of travel between the two. Egypt and Sudan have signed a “Four Freedoms” agreement, granting Egyptians and Sudanese free movement, residence, work, and ownership in either of the two countries. Could something similar be decided between the north and south?

Debts and Assets - The south’s share of Sudan’s sizeable national debt – estimated by the International Monetary Fund in 2008 at US\$34 billion – will be another issue. Analysts say the north will want a seceding south to take on a portion of its public debt burden. SPLM officials have rejected such suggestions, often accusing the north of using that borrowed money to wage war against southerners. There is also the question of national assets and the properties of state-owned companies in the south.

Currency - After the CPA, Sudan’s official currency, the dinar, was replaced with the Sudanese pound. If the south secedes, will the north and south continue under the pound? A newly independent south could choose to create its own currency, or switch for a period to an established foreign currency such as the US dollar. Analysts say a decision to maintain the Sudanese pound on both sides could bond the two economies together.

International agreements - A state enters pacts every year with other countries on a variety of matters. Southern Sudan would have to decide whether to honour international agreements reached by Sudan, or whether to transfer or scrap some.

Security - The two parties must agree on what happens to key aspects of national security. They will have to decide how to demobilize the Joint Integrated Units and what would happen to the southern portion of Sudan’s national intelligence apparatus.⁸³

There have been indications that the new state of Southern Sudan would not seek straight away to change the 50-50 oil-sharing arrangement between North and South that currently applies – even if it has been honoured more in the breach than in the observance – under the CPA.⁸⁴ However, there have also been claims that an independent Southern Sudan would review current oil contracts with foreign companies and possibly cancel some of them. Chinese, Malaysian and Indian oil companies now control 88 per cent of oil production across Sudan.⁸⁵

On the currency question, the Governor of the Bank of Southern Sudan has been quoted as saying that, in the immediate period after independence, Southern Sudan would continue to use its existing currency (since 2007, the Sudanese Pound), but that a “temporary dollarization” of the economy was also an option. The US Dollar is already widely used.⁸⁶

It should be noted that the number of seats in the National Assembly will increase to 496, if the Assembly agrees to a deal done by the NCP and SPLM in February 2010. 40 of the 46 additional seats will go to the South, which will give it 26.5 per cent of the seats. From the SPLM’s viewpoint, the virtue of the deal is that it preserves its veto power in the National Assembly over any constitutional amendment, the loss of which could have implications for the referendum process. It abandoned its long-standing objections to the 2008 census, under

⁸³ “Sudan: Key post-referendum issues”, www.irinnews.org, 20 May 2010

⁸⁴ M. Fick, “Southern politicians start staking out positions on hot-button issues”, 25 March 2010. Available at: www.enoughproject.org/blogs/maggie-fick

⁸⁵ HL Deb 7 January 2010 c230

⁸⁶ M. Fick, “Southern politicians start staking out positions on hot-button issues”, 25 March 2010. Available at: www.enoughproject.org/blogs/maggie-fick

which the population of the South was assessed at what was, in its view, an unreasonably low figure of 21 per cent, as part of this deal.⁸⁷

So what should the role of the international community be during the final phase of the CPA and beyond? The EU Institute for Security Studies published a report in November 2009 which argued that the EU “needs to pragmatically endorse the assumption of Southern secession and adopt a ‘peaceful coexistence strategy’ using all existing European instruments in a more coordinated manner.”⁸⁸ While this may well be happening to a certain extent ‘behind the scenes’, the EU is highly unlikely to take such a position publicly. The same is true of the US. In May, Scott Gration said that the US was continuing

to strongly encourage the parties to formalize a framework for negotiations on post-CPA issues. The critical issues for agreement will include: citizenship, management of natural resources such as oil and water, the status of trans-boundary migratory populations, security arrangements, and assets and liabilities.⁸⁹

While it has consistently said that it supports the CPA process and remains in contact with other international stakeholders, China’s preference for a united Sudan is clear. Accordingly, it is extremely reticent about the prospect of Southern independence.

The ICG published a report in April 2010 which stated that Sudan’s neighbours within the region also need to prepare for a vote in favour of Southern independence. It argued that they have a crucial role to play in supporting the South and in preventing an outbreak of conflict between it and the North.

The role of these neighbours may be complicated by the differences that currently exist between Egypt and Sudan, on one side, and most of the other states in the region, on the other, over sharing the waters of the Nile River Basin. Egypt and Sudan have opposed a ‘framework agreement’ that was recently agreed by other affected countries. A future Southern Sudan, which some speculate might even name itself the ‘Nile Republic’, could find itself opposing the North on this issue.⁹⁰

Since mid 2009 a series of reports have been published by think-tanks and other NGOs that attempt to anticipate future scenarios for Sudan as it prepares for the referendums that will decide the fate of the country.⁹¹

An August 2009 report by the US Institute for Peace identified three scenarios for 2011 and beyond:

⁸⁷ ICG, *Rigged elections in Darfur and the consequences of a probable NCP victory in Sudan*, Africa Briefing No. 72, 30 March 2010, p. 2

⁸⁸ *Post-2011 scenarios for Sudan: What role for the EU?*, p. 3. Available at: http://www.iss.europa.eu/uploads/media/Post-2011_scenarios_in_Sudan.pdf

⁸⁹ “A critical moment for the CPA, Darfur and the region”, US State Department, press release, 13 May 2010

⁹⁰ ICG, *Sudan: Regional perspectives on the prospect of Southern independence*, Africa Report No. 159, 6 May 2010; “Egypt warns that new Nile agreement could prove a ‘death sentence’”, *Independent*, 31 May 2010

⁹¹ Others not discussed here include: E. Thomas, “Decisions and deadlines: A critical year for Sudan”, Chatham House report, January 2010; “Sudan – No easy ways ahead”, Heinrich Boll Foundation, Publication series on democracy, Volume 18, 2010; K. Almquist, “Renewed conflict in Sudan”, Council on Foreign Relations, Contingency Planning Memorandum No. 7, March 2010; M. Fick, “Preparing for two Sudans, The Enough Project, March 2010; C. Mc Evoy and E. LeBrun, “Uncertain future: Armed violence in Southern Sudan”, Small Arms Survey, Human Security Baseline Assessment Working Paper 20, April 2010

Costly Secession

Without a change in its current capacity to govern effectively, the South simply devolves into violence. It is a downward spiral that occurs without aggression from the North or a loss of existing donor support.

Indicators associated with this path:

- overall level of violence in the South (especially intertribal);
- success of disarmament efforts;
- continued unity/disunity of SPLM leadership;
- the proportion of service delivery by NGOs versus GOSS (e.g., NGOs are no longer providing a large majority of health services);
- reform of MDTF and assistance strategies generally;
- quick-impact projects in small communities;
- flow of revenue to local communities as opposed to military expenditures;
- budget priorities of GOSS (guns versus butter);
- publication of state budget to see priorities and to demonstrate accountability and transparency;
- strength of anticorruption commissions;
- strength of human rights commissions;
- degree of uncertainty of how independence would be implemented;
- degree of calm following 2010 elections;
- effectiveness of GOSS police; and
- extent to which Darfur conflict is spilling over.

Civil War, from Tinderbox to Conflagration

The failure to address the basic issues between the North and South results in violence after the referendum.

Indicators that this path is being followed:

- failure to make unity attractive;
- lack of meaningful talks on the post-referendum futures;
- arms buildup on both sides;
- continued lack of oil transparency;
- failure of joint integrated units (JIUs);
- collection of grievances by South;
- North reengaging with dissident groups in the South;
- unclear or inadequate resolution of boundaries;
- increased propaganda and rhetoric on both sides;
- drop in oil prices;
- troop movements on either side; and
- increased diplomatic contact with the region by the North and South in support of their respective positions and opposing the other's position.

Muddling Through

With some progress on some issues the parties manage to muddle along, and avoid large-scale violence.

Indicators that this path is being followed:

- progress on census to resolve the differing positions between the parties;
- progress in implementing a new Abyei boundary;
- limited contestation of election results;
- an agreement on the border or an expressed willingness to reach agreement;
- some resolution of the status of Southern Kordofan and Blue Nile (e.g., a resolution of disputes over the parties' desires prior to the referendum and acknowledgment of what each side expects);
- resolution of Darfur conflict or a steady-state stalemate without increased violence;
- some level of agreement between North and South on the nature of

either separation or unity;

- lack of contestation of the referendum; and widespread recognition of South by the neighbours and international community.⁹²

All three scenarios remain a possibility today.

The same is true with regard to the four scenarios identified in a September 2009 IKV Pax Christi/Cordaid report on Sudan in 2012, in the aftermath of the 2010 elections and the 2011 referendums. They were:

1. The Last War Revisited? (War – United)
2. Border Wars (War – Secession)
3. CPA Hurray! (No War – United)
4. Be Careful What You Wish For: Somalia? (No War — Secession)⁹³

The report had five main findings:

First, it is very likely that the current situation will deteriorate and that violence and armed conflict will continue in Sudan. Conflict may be between the North and the South, and divide and rule strategies may also stimulate North-North or South-South conflict. Even if the North and South separate peacefully, they are likely to each have their own internal conflicts. In fact, even in the most peaceful ‘CPA Hurray!’ scenario, small-scale conflicts are still likely. Given the likelihood of continuing armed conflict, it may not be wise to direct all long-term attention to developmental rather than humanitarian assistance.

Second, although in theory all four scenarios are possible, the ‘CPA Hurray!’ scenario – the only one that promises a less violent future – appears less plausible. However, as it represents the most positive outcome, it is worth pursuing as a strategy, while at the same time preparing for what might happen if it fails.

Third, the organisation of free and fair elections is essential, not only to guarantee peace, but as the only peaceful way to bring about unity, as in the ‘CPA Hurray!’ scenario.

Fourth, continuous outside mediation and pressure is needed to get all parties to implement the CPA and to make unity attractive. For this to be possible, the time horizon needs to be extended beyond 2012. This is only possible to a limited extent, because the flexibility of the Sudanese system has reached its limits and deadlines, such as for the referendum, cannot be postponed indefinitely. The Sudanese need to talk about the post-2012 period, and also make the pre-2012 period more manageable by entering into discussions, for example, about what unity might look like.

⁹² USIP, *Scenarios for Sudan. Avoiding political violence through 2011*, Special Report 228, August 2009. Available at: http://www.usip.org/files/resources/SR228_0.pdf

⁹³ J. van der Lijn, *Sudan 2012: Scenarios for the future*, IKV Pax Christi and Cordaid, The Hague, September 2009, p. i. See: [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/AHHD-7VYQTD-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/AHHD-7VYQTD-full_report.pdf/$File/full_report.pdf)

Fifth, the critical difference between a successful and unsuccessful outcome will to a large extent be determined by whether the South has a stable, cooperative and confident leadership⁹⁴

3.3 Conclusion

In the past, concerns have been expressed that the diplomatic approach to building peace in Sudan has too often been piecemeal in character: breaking the country down into North-South, Western and Eastern 'compartments'.⁹⁵ This was the case, critics alleged, despite the fact that the statements of all the main diplomatic actors asserted that 'linkage' was the dominant concept underpinning their strategy for peace in Sudan. In retrospect, international efforts to reach agreement on the CPA during 2003-04 may well have involved some neglect of other conflict dynamics in Sudan – above all, Darfur. Many would argue that this was unavoidable and, indeed necessary – once it was agreed, the CPA could act as a template for wider peace efforts in Sudan. However, others have claimed that the CPA's value as a template has been less than hoped.

There then followed a period (2005-08) where an understandably strong focus on the conflict in Darfur may have led to insufficient international attention being paid to sustaining the CPA. However, during 2009, there appears to have been a shift in emphasis back towards propping up the CPA as crucial elections and the Southern Sudanese referendum draws near. Whether justified or not, some campaigners whose main focus is Darfur have started to feel that this has been to the detriment of moves to address the conflict there. It is probably fair to say that the East, with the brief exception of 2006-07, has been the 'cinderella' of Sudan's conflicts.

In truth, there have always been finite diplomatic and financial resources available to those seeking to manage this complex international 'juggling act' on Sudan. The 'juggling act' will continue as the CPA approaches its moment of truth.

Sudan analyst Alex de Waal, writing in March 2007, was largely pessimistic about the long-term prospects for North-South peace:

Resolution of Sudan's crises must be guided by two realities. The first is that a popular vote for separation of the South is far more likely than a vote for unity. Most Southern Sudanese say they are waiting patiently for the 2011 referendum. If that vote is free and fair, most will vote for independence. The wishes of the Southern electorate must be respected and the outcome implemented smoothly and peacefully. But planning for the transition should begin now [...] The second reality is that Khartoum's security cabal and NCP operators are sufficiently powerful that they can thwart any plan if their core interests are not taken into account. The choice will be between a soft landing for Bashir and a new conflict that puts at risk the peace at Naivasha and deepens the crisis in Darfur [...] Leaders on both sides know that a new war would be a catastrophe for all. It would begin with violence in the cities and lead to the disputed secession of the South. The certainty of such disaster has not prevented warmakers in the past and will not do so again.⁹⁶

An SPLM official, speaking in early 2006, said: "Our strategy was to make the cost of non-implementation [of the CPA] higher to the NCP than the cost of implementation. This is not currently the case."⁹⁷ Many observers claim that little has changed since then. They do not

⁹⁴ J. van der Lijn, *Sudan 2012: Scenarios for the future*, IKV Pax Christi and Cordaid, The Hague, September 2009, p. ii

⁹⁵ Hugo Slim, "Dithering over Darfur?", *International Affairs*, 80, 5 (2004), p. 822

⁹⁶ Article by Alex de Waal published in *The Nation* (Kenya), 19 March 2007

⁹⁷ ICG, *Sudan's Comprehensive Peace Agreement: The Long Road Ahead*, p. 24

expect the NCP to allow peaceful secession to take place, which would render the Faustian bargain allegedly struck between it and the international community – acquiescence in rigged elections in return for peaceful Southern secession – worthless.⁹⁸ They also worry that, even if the NCP accepts the result of the Southern referendum, it may deliberately provoke conflict over oil-rich Abyei. Overall, it is difficult to see the NCP accepting any outcome that involves a dramatic loss of oil revenues for the North, which have been crucial to its power and patronage over the past decade.

Others argue that views within the NCP are much more diverse, with some in its ranks willing to accept Southern independence if that will allow the NCP to consolidate its hold over the North.⁹⁹ In addition, the full impact on the 'CPA endgame' of the International Criminal Court's continued pursuit of President al-Bashir is also yet to become clear. If divisions within the NCP are as significant as some claim, there remains considerable room for diplomatic manoeuvre. However, the SPLM appears to feel it cannot afford to be too sanguine about this prospect – hence continuing efforts to build up its army.

If the pessimistic view does prove accurate, then the North-South and Abyei referendums could simply be a prelude to "the next war."¹⁰⁰

⁹⁸ E. Reeves, "Sudan's elections: Responding to an electoral travesty", *Dissent*, 22 April 2010. Available at: <http://www.dissentmagazine.org/atw.php?id=98>

⁹⁹ J. Temin, "What we don't see in Sudan", www.ssrc.org, 10 May 2010

¹⁰⁰ IKV Pax Christi, "The state of Sudan's Comprehensive Peace Agreement", Alert No. 1, September 2009, p. 5