

Ticking the box: elections in Sudan

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September 2009

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Glossary

CPA	Comprehensive Peace Agreement
ICC	International Criminal Court
IDPs	Internally Displaced Persons
JEM	Justice and Equality Movement
JIUs	Joint Integrated Units
GNU	Government of National Unity
GoSS	Government of Southern Sudan
NCP	National Congress Party
NEC	National Elections Commission
NISS	National Intelligence and Security Services
OAGs	Other Armed Groups
PCA	Permanent Court of Arbitration
PCP	Popular Congress Party
SSDF	South Sudan Defence Forces
SAF	Sudan Armed Forces
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
SPLM-DC	Sudan People's Liberation Movement for Democratic Change
SSEHC	Southern Sudan Elections High Committee

Preface

In Sudan, the country's first national elections since ending more than two decades of war are planned for April 2010. This report aims to deepen the understanding of the context in which these elections are to take place and to assess their possible impact. To this end, it first briefly explores the rationale behind the post-conflict ballot, before moving on to consider the framework of Sudan's 2010 elections, the nature of the Sudanese state and politics, contemporary flashpoints, and the calculations of key political players. On the basis of that analysis, four different scenarios for the elections will be identified. The report ends with a section reflecting on possibilities for international engagement.

Sudanese politics are at the heart of this study. Hence, elections will not be treated as a technical exercise but rather as an event with an effect on the interests of and relations between various political actors. To limit the scope of the research to some extent, the main focus will be on Sudan's North-South dynamic. For the purpose of this report, a field study was conducted in Khartoum and Juba between 2 and 17 March 2009, during which over 30 local and international stakeholders were interviewed. In addition, several experts based outside of Sudan were consulted (see Annex). Over the last few months, numerous papers on the Sudanese elections have been published. The author appreciated the opportunity to take these into account during the drafting process.

This report represents the first phase of a longer research project, anticipating potentially far-reaching developments in Sudan in 2011 and their effect on the wider Horn of Africa region. The author would like to thank Mariska van Beijnum, Rosan Smits and Jeroen de Zeeuw for their very helpful comments on earlier drafts. In addition, he would like to express his sincere gratitude to those who agreed to be interviewed, for sharing their valuable time and insights. Though having greatly benefited from other people's views and writings, the author remains solely responsible for the content of the report.

Executive summary

Background – Sudan is preparing for its first national, multi-party elections since 1986, and its first major democratic exercise after ending more than two decades of armed conflict. The establishment of the Comprehensive Peace Agreement (CPA) brought an end to the country's 1983–2005 civil war. The CPA constitutes a deal between the Khartoum-based government of Sudan, represented by the National Congress Party (NCP), and the Sudan People's Liberation Movement/Army (SPLM/A), a former southern rebel group. It provides for a six-year interim period that paves the way for a referendum on independence for the South in 2011. It was decided that general elections were to be conducted at the halfway point. They were thought to represent the key step in the democratic transformation of the Sudanese state, required to modify the country's excessive centralization of power and wealth. In addition, it was envisaged that they would serve as a plebiscite on the CPA, engage political forces that were not included in the agreement, and instil among the Sudanese population a sense of ownership of the peace process. However, previous Sudanese elections were intended mainly to demonstrate the competence and legitimacy of successive regimes, and were commonly characterized by serious flaws in the electoral process, a lesson that fuels the doubts regarding the purpose of the forthcoming poll.

Electoral framework – After two modifications of the time frame, the date of Sudan's elections was set at April 2010. The National Elections Act stipulates elections for political offices at six different levels, using a mixed majoritarian–proportional representation system. In addition to misgivings regarding the potentially unworkable nature of Sudan's complicated electoral system, there are serious concerns about the whole set-up of the elections. These range from fears that the electoral system will not allow for minority views to be adequately represented and confusion as to how much control Southern Sudan has over the management of the elections in its own constituency, to doubts about the objectivity of the National Elections Act and the neutrality and executive capacities of the National Elections Commission. Given the country's size and poor physical infrastructure in all except some northern areas, a massive logistical operation will be necessary in order to enable all Sudanese to cast their vote in an orderly manner. In this regard, the lengthy rainy season, high illiteracy rates and unfamiliarity with the practice of the ballot pose tremendous challenges. In the context of a tight time schedule, many of the issues associated with meeting internationally accepted standards for elections still have to be adequately addressed.

Contemporary flashpoints – Without playing down the many technical and operational difficulties associated with organizing Sudan's 2010 elections, it can be said that the biggest challenges will unquestionably stem from the political

context in which they are to take place. The NCP and the SPLM are nearing the endgame of the CPA transitional period and face a discouragingly long list of difficulties to overcome, which obviously has a significant impact on the electoral environment. The impasse over the census outcome, disagreements on where to draw the North–South border and on the drafting of the referendum law, and the row over Abyei are among the most dangerous potential triggers for a return to armed conflict. Furthermore, although almost six years have passed since the fighting erupted in Darfur, there is still no sign of a permanent solution to the multifaceted problems in the country’s troubled western region. The protracted nature of the crisis raises serious doubts with regard to the feasibility of Darfur participating in the elections. However, the exclusion of Darfur could be a recipe for more violence in the region and would obviously severely damage the credibility of the results.

Calculations of dominant political players – In tense and turbulent times, Sudan’s ruling parties each have their own interests and objectives informing their attitude towards the forthcoming poll. Given that the NCP allegedly enjoys little popular support outside its riverain constituencies, it will find the prospect of having to compete for power with other political parties fairly discomfoting. Yet in the wake of the indictment of President Omar al-Bashir by the International Criminal Court, it sees the poll as an opportunity to demonstrate both the regime’s resilience and its legitimacy. To minimize the risk that elections alter the current balance of power to its disadvantage, the NCP can benefit from its control over the economy and state apparatus, which probably offers it sufficient financial means to buy off potential adversaries, as well as the necessary tools to manipulate the electoral process and ensure victory. The chance that its ‘play-to-win’ strategy will succeed is enhanced by the weakness of and divisions between the northern opposition parties.

The SPLM is increasingly struggling to sustain the umbrella role it acquired after the signing of the CPA and to curb recently warring factions. But for now, the prospect of the referendum, and shared animosity towards the NCP, appear to be the glue that holds the SPLM together and keeps important potential party dissidents in line. As long as it manages to preserve its fragile unity, the SPLM remains the only game in town in the South. Opposition parties at present lack the strength but also the will to really challenge the SPLM’s authority: they too are very well aware that only a united SPLM is strong enough to ensure that, in the end, the South will be granted its referendum. It remains to be seen whether events surrounding the elections will pose a real challenge to the consensus within Southern Sudan’s political establishment that preserving the status quo is, at this point, in its best interest. The SPLM is not expected to receive much backing in the North. In the general elections, its main objectives will be to avoid losing too much ground to the NCP and to hold on to a minimum of 25 per cent of the seats in the National Assembly, necessary to block any unwarranted constitutional changes that could jeopardise the South’s right to self-determination.

Scenarios – With regard to the 2010 elections, four scenarios can be identified. *Scenario 1: The elections are free and fair and represent a step towards a more inclusive and representative system of governance and accountable leadership.* Even with all the appropriate caveats in place, Sudan’s political context presents an extremely unfavourable environment for an open and honest competition for power. Hence there appears to be little likelihood of this dream scenario being realized. *Scenario 2: The NCP, the SPLM and international stakeholders reach consensus that the time is not ripe for elections and they will be postponed until further notice or even cancelled altogether.* The chance that any real debate will open up regarding the desirability of the 2010 poll, and thus the likelihood that this scenario will unfold, is shrinking as time passes and investments in the electoral process grow. *Scenario 3: The elections are flawed and change the status quo little, if at all.* This is a likely scenario, in which the NCP and the SPLM organize elections that mainly serve to demonstrate continued commitment to the peace agreement. However, reconfirming existing power relations, and preserving continuity, are their actual and shared objectives, which are achieved through establishing pre-electoral alliances and through striking pre- and post-electoral deals. *Scenario 4: The elections are contested and spark large-scale political violence.* The heat of the elections could well lead to further NCP-SPLM polarization and heightened tensions over unresolved problems, preventing the parties from establishing the pre-electoral alliances and striking the pre- and post-electoral deals that characterize the third scenario. In the event that the outcome of the elections is disputed, their partnership hits deadlock and CPA implementation comes to a total standstill. At worst, fears spread throughout the South that it will be denied its referendum and the SPLM opts for claiming its right to self-determination by force, which constitutes the prelude to a new war.

Recommendations – A sober appraisal reveals that Sudan has much to lose and little to gain from the 2010 elections. Realistically speaking, a relatively peaceful ‘ticking of the box’ rather than an open and honest poll appears to be the best possible result that could be achieved. International donors are faced with the question of what they can do to help reduce the threat of elections-related violence, and at the same time seize the few opportunities the 2010 ballot does have to offer. In this regard, it is recommended that the international community: adopts a pragmatic approach in which realistic goals take precedence over wishful thinking; invests in voter information and education to raise awareness about the complex procedures that accompany the conduct of the ballot; uses the elections as a pretext to increase international support for Sudanese civil society actors; presses for an agreement on the census results and the referendum law in order to allow for the demarcation of constituency boundaries and boost the South’s confidence in the peace process respectively; and encourages pre-election NCP-SPLM dialogue so that they can develop a shared understanding of how best to manage the 2010 poll and, by extension, lessen existing fears that the winner will indeed ‘take all’.

Map of Sudan¹



¹ This map was retrieved from <http://www.un.org/Depts/Cartographic/map/profile/sudan.pdf>.

1. From bullets to ballots or vice versa?

Few would dispute the notion that conducting elections in societies at risk of or emerging from violent conflict is a complex undertaking fraught with difficulties. But while the prevailing belief during the 1990s was that elections were necessary for generating sustainable peace and development, in recent years, the rationale behind organizing them in such unpromising circumstances has been increasingly called into question. In his latest book, *Wars, Guns and Votes: Democracy in Dangerous Places* (2009), Paul Collier stresses that competitive elections in themselves do not provide an easy way out for low-income countries that are experiencing protracted political violence. He warns against the simplistic assumption that they offer a ‘quick fix’ and subsequently attempts to refute the hypothesis that “where people have recourse to the ballot, they don’t resort to the gun”.²

Why elections don’t (necessarily) cure political violence

Why would one believe that democracies, of which elections are the defining characteristic, are less vulnerable to political violence in the first place? Collier explains that, in theory, a democratically elected government is accountable to its citizens and therefore has an incentive to perform well. If it does, this in turn reduces the chance that its rule will be violently contested. Also, because this government is mandated by a majority of the people and therefore enjoys a certain degree of legitimacy, its opponents will find it difficult to rally mass support for violent opposition. However, Collier argues that in low-income countries, elections often deliver neither accountability nor legitimacy. In fact, statistics show that in these countries elections actually tend to increase the risk of political violence. How can this be explained?

Collier points out that where autocratic regimes in the countries that are home to the ‘bottom billion’ are under pressure to democratize, the introduction of electoral competition creates a Darwinian struggle for political survival. The countries under examination share a few features. They typically lack the democratic infrastructure to provide the necessary checks and balances that limit the powers of the victorious candidate. Consequently, the winner can, quite literally, ‘take all’. Also, citizens in low-income countries generally don’t have access to the necessary information to judge their governments’ performance. This judgement is in any case often not what informs their vote. Rather, political loyalty tends to be organized along ethnic lines.

² Paul Collier (2009: 5). *Wars, Guns, and Votes: Democracy in Dangerous Places*. London: The Bodley Head.

Under these conditions, autocratic leaders find it doesn't pay to play by the 'good governance' rules. Instead, they adapt themselves to this situation in which democracy has become the norm and develop various strategies – ranging from lying, and scapegoating a minority community, to bribery and miscounting votes – in order to ensure that the conduct of elections does not jeopardise their hold on power. Not only does the introduction of elections fail to reduce political violence – the strategy that mainly weaker challengers resort to – it actually tends to hamper the reform of economic and governance policies. After all, those in power have at their disposal far more cost-effective means of attracting votes.³

Collier's message is clear and has previously been referred to by others while debating the viability of democratization in impoverished, conflict-ridden countries.⁴ Elections should not be treated as a silver bullet; they cannot by themselves facilitate a transition from autocratic to democratic rule and in so doing decrease the incidence of political violence and improve governance performance. Yet questions remain with regard to the implications of Collier's analysis: what does his account tell us about the (de)merits of post-conflict elections and how should it inform future policies and decisions on, for instance, timing and sequencing issues? Scholars and practitioners searching for answers to these questions will find in the Republic of Sudan a particularly challenging new case, as it prepares for its first national, multi-party elections since 1986, and its first major democratic exercise after the end of more than two decades of warfare.

³ Collier (2009: 15-51).

⁴ For a brief overview of the two opposite views in this debate, see: Jeroen de Zeeuw (2009). *From 'Winner-Takes-All' to Sharing the Cake? Preventing Electoral Violence in Afghanistan, Sudan and Burundi*. The Hague, Clingendael Institute. CRU Policy Brief.

2. Elections in Sudan

The establishment of the Comprehensive Peace Agreement (CPA) in January 2005 brought an end to Sudan's 22-year civil war. The CPA constitutes a deal between the Khartoum-based government of Sudan, represented by the National Congress Party (NCP), and the Sudan People's Liberation Movement/Army (SPLM/A), a former southern rebel group.⁵ In addition to several other arrangements, the CPA provides for an interim period of six years during which the country is ruled by a Government of National Unity (GNU) that represents both parties, as well as for an autonomous Government of Southern Sudan (GoSS). Ultimately, the interim arrangement paves the way for a referendum on independence for the South in 2011. It was decided that general elections were to be conducted at the halfway point (see box below).

It is worth pointing out that the NCP and the SPLM themselves were not in favour of mid-term elections being adopted as part of the final peace agreement.⁶ Rather, the decision reflected the wishes of international donors involved in negotiating the CPA, in particular the United States. The rationale behind this decision to hold elections during the interim period was twofold.

First of all, the extreme inequities between the country's core and its peripheries were rightly identified as one of the root causes of Sudan's crises. Therefore, it was reasoned, any durable solution had to involve the democratic transformation of the state, which would in turn ensure a more balanced distribution of the public good. If executed effectively, moreover, this democratic transformation would mark the end of the marginalization of Sudan's southern provinces and consequently make unity an attractive option for those having to decide on the South's future in the 2011 referendum.

Key features of the CPA

- A *power-sharing agreement*, providing for a Government of National Unity, an autonomous Government of Southern Sudan, mid-term elections and a referendum on independence for the South in 2011;
- A *wealth-sharing agreement*, outlining a framework for resource allocation, including the division of oil revenues;
- A *security protocol*, providing for two separate armed forces as well as joint integrated units, merging troops from the North and the South;
- A *separate power- and wealth-sharing agreement for Abyei, Southern Kordofan and Blue Nile*, three regions heavily disputed during the war. This agreement includes a referendum for Abyei in 2011 on its final status within either North or Southern Sudan. Southern Kordofan and Blue Nile were granted popular consultations on the same issue.

⁵ Paradoxically, the most fundamental criticism of the Comprehensive Peace Agreement has been that it is in fact not 'comprehensive' at all: political forces from Darfur and eastern Sudan as well as opposition parties from the North and the South were excluded from the process that eventually led to its establishment.

⁶ As John Young noted, "neither party wanted to test its support before the Sudanese electorate and instead favoured not holding elections until after the 2011 referendum on self-determination". See John Young (2007: 30). *Sudan IGAD Peace Process: An Evaluation*. 30 May.

Elections were thought to represent the key step in this process. Second, mid-term elections were deemed essential to legitimise the agreement's power-sharing formula, since under the settlement, all officials in executive and legislative positions in Sudan were appointed.⁷ Ideally, they would serve as a plebiscite on the CPA, engage political forces that were not included in the agreement, and instil among the Sudanese population a sense of ownership of the peace process.

Elections are not new to Sudan. A recent Rift Valley Institute study outlines the country's considerable electoral history: between 1953 and 2000, a total of 17 national elections and referenda were held for various purposes, although vast parts of Sudan were regularly excluded from participating. However, this repeated conduct of the ballot has so far failed to offer a measure of accountability to the Sudanese citizens or confer a degree of legitimacy on those who govern. Previous Sudanese elections, the Rift Valley Institute report shows, were intended mainly to demonstrate the competence and legitimacy of successive regimes, and were commonly characterized by serious flaws in the electoral process, deriving primarily from malpractice, problems of resources and organizational failures.⁸ Not surprisingly, these lessons from the past fuel doubts regarding the purpose of the forthcoming poll.

Framework of the 2010 elections

According to the time frame established for implementing the CPA, elections were originally supposed to take place in July 2009 at the latest. But with just three more months to go before meeting that deadline, and with preparations lagging far behind schedule,⁹ the National Elections Commission (NEC)¹⁰ announced the postponement of the poll to February 2010. Soon after, the NEC modified the time frame again, this time setting April 2010 as the date of the elections.

The framework of Sudan's 2010 elections is marked by its complexity and it reflects a high level of ambition. The National Elections Act, passed in July

⁷ With regard to the national executive and legislative positions, the CPA entitles the NCP to fill 52% of the posts, the SPLM 28%, other northern political forces 16% and other southern political forces 6%. In the South, the SPLM fills 70% of the executive and legislative posts and the NCP and other southern political forces 15% each. See: *The Comprehensive Peace Agreement* (2005). Article 2.2.5; 2.5.5; 3.5.1; and 3.6.4.

⁸ Justin Willis, Atta el-Battahani and Peter Woodward (2009). *Elections in Sudan: Learning from experience*. Rift Valley Institute.

⁹ For example, the census, the passing of the elections law and the establishment of the National Elections Committee all suffered from serious delay.

¹⁰ The NEC is chaired by Abel Allier, a widely respected southern political figure. Ironically, Allier was one of the people who, during the peace negotiations, warned against holding mid-term elections, arguing that they would be too destabilizing (Young 2007). There have been rumours that Allier was keen to avoid getting involved in the organization of the poll and that the decision to appoint him chairman of the NEC was made without his final approval.

2008, stipulates elections for political offices at six different levels, namely for (i) the presidency of the GNU; (ii) the presidency of the GoSS; (iii) state governorships; (iv) the national legislature, consisting of the National Assembly and the Council of States; (v) the South Sudan Legislative Assembly; and (vi) the State Legislative Assemblies. The executive branch of government – the presidencies and state governors – is to be elected by using a majoritarian, ‘first-past-the-post’ system.¹¹ A mixed system is used for the election of members for the national, the southern and the state legislatures: 60 per cent of the members of the National Assembly, the Southern Sudan Legislative Assembly and the State Legislative Assemblies will be elected through a majoritarian system, while the remaining 40 per cent will be elected on the basis of proportional representation, with 25 per cent of the seats being reserved for women. The Council of States will be made up of two representatives from each of Sudan’s 25 states, to be selected by each State Legislative Assembly.

In addition to misgivings regarding the potentially unworkable nature of this complicated electoral system, there are concerns about the whole set-up of Sudan’s elections. To start with, the dominance of the majoritarian element in the electoral system reduces the chance that minority views will be adequately represented.¹² Also, the National Elections Act is perceived as benefiting the North because, among other things, it hinders the participation of refugees and the Sudanese diaspora, most of whom are southerners. Furthermore, the relationship between the NEC and its southern ‘counterpart’, the Southern Sudan Elections High Committee (SSEHC), is unclear. This lack of clarity concerns their respective mandates, which were left undefined in the CPA. Neither were they spelled out in the National Elections Act, which merely indicates that the SSEHC “shall be responsible to the [NEC] in administering and supervising the elections” at the Southern Sudan level.¹³ As a consequence, there is confusion as to how much control Southern Sudan has over the management of the elections in its own constituency. On top of this, there are strong doubts about the NEC’s neutrality and executive capacities.

The organization of Sudan’s 2010 elections will be an enormous task. Given the country’s size and poor physical infrastructure in all except some northern areas, a massive logistical operation will be necessary in order to enable all Sudanese to cast their vote in an orderly manner. In this regard the lengthy rainy season, during which the accessibility of large parts of central and Southern Sudan is greatly reduced, is an added obstacle. In Sudan’s marginalized areas, high illiteracy rates and unfamiliarity with the practice of the ballot will pose a serious challenge, especially given the fact that some of the

¹¹ In the elections for the GNU and GoSS presidents and the state governors, if no candidate initially manages to win a majority of the votes, a second round between the two highest-ranked candidates will follow.

¹² Gerard McHugh (2008). *Electoral Reform in Sudan and Prospects for Peace in Darfur: Implications of the National Elections Act 2008 for the Darfur Political Process*. Conflict Dynamics International: Briefing Paper.

¹³ The National Elections Act 2008: article 18.3.

voters are expected to fill in as many as 12 different ballot forms. “For many people in Sudan”, a senior practitioner involved in the organization of the elections pointed out, “this will not only be the first time they will cast their vote, but also the first time they will hold a pen.” In the context of a tight time schedule, many of the issues associated with meeting internationally accepted standards for elections, including the establishment of the electoral budget, the registration of voters, the demarcation of constituencies, and the recruitment and training of election officials, still have to be adequately addressed.¹⁴

¹⁴ See, for example, the progress reports of the Carter Centre: *Sudan's 2010 Elections; Critical Steps for a Genuine and Viable Electoral Process*. 7 May 2009(a); and *Status of the Electoral Process in Sudan – Concerns Remain over Electoral Delays and Peace Agreement Implementation*. 20 August 2009(b).

3. Sudan: state and politics

An appreciation of the likely impact of the 2010 elections must start with an understanding of the particularities of the Sudanese state and the workings of Sudanese politics. In this regard, two features stand out and are worth explaining in some detail. One is that Sudan is characterized by a hyper-dominant but chronically unstable political centre. The other is the structural weakness of the country's formal political institutions, leading to a particular type of political conduct, which revolves round a marketplace of loyalties based on patronage.¹⁵

Khartoum: dominance and turbulence

The extreme political and socio-economic disparities between the country's centre and peripheral areas are arguably the most fundamental feature of the Sudanese state. Khartoum, located in the north, represents the heart of Sudan's political, economical and commercial affairs, and over the years this has led to an accumulation of power and wealth in and around the capital. By contrast, Sudan's peripheral areas, which together form the largest geographical area and are home to the majority of the population, have experienced neglect, marginalization and suppression, and consequently contain some of the least developed regions in the world.

Ever since the country achieved independence in 1956, the highest levels of Sudan's state apparatus have been dominated by three minority tribes originating from the Nile area north of Khartoum.¹⁶ While presiding over virtually every aspect of the state, the ruling coalition itself is characterized by disunity. Historically, Sudan's northern establishment has been composed of several elite groups, each of which is unable to establish hegemony over the others, resulting in a continuous power struggle.

Although the uninterrupted rule of President Omar Hassan al-Bashir might tempt one to conclude otherwise, the NCP's rise to power following a coup in 1989 did not bring an end to this existence of multiple contending power centres in Khartoum. Since its establishment, the NCP-dominated regime has

¹⁵ This chapter largely draws on Alex de Waal's analyses as presented in 'Sudan: The Turbulent State' (pp. 1-38). In: *War in Darfur and the Search for Peace* (2007). Cambridge, Harvard University Press; and 'Mission without an end? Peacekeeping in the African political marketplace' (2009), *International Affairs*, 85-1, 99-113. Please note that the analysis presented here highlights only those elements relevant for the purposes of this paper and does not necessarily offer a comprehensive representation of De Waal's line of thought.

¹⁶ These are: the Shaygiyya, the tribe of Second Vice-President Ali Osman Taha and presidential adviser and former state security chief Nafie Ali Nafie; the Ja'aliyiin, to which President Omar al-Bashir belongs; and the Danagla.

suffered from as great a lack of internal cohesion as its predecessors did, despite a preliminary attempt to utilize Islam as a unifying factor transcending all other loyalties. What has kept it from collapsing, so far, is a common interest among the warring factions in maintaining their near-absolute control over the state apparatus and the associated access to the country's economic resources, most notably its substantial oil revenues.

Sudanese politics: an auction of loyalties

The chronic instability of the power constellation in Khartoum has reduced the capacity of successive regimes to move beyond the development of short-term, ad hoc policies for the management of the country's affairs. This situation is aggravated by the lack of sufficiently effective formal institutions that would allow for the organized representation of interests, or for political differences to be dealt with. Indeed, political life in Sudan can be said to be organized according to a marketplace of loyalties based on patron–client relationships, where those who sell their loyalty seek to maximize their price, while purchasers of loyalty aim to keep their costs as low as possible. The subsequent bargaining game defines relations between political actors on all levels of Sudanese society and particularly holds true for the way in which Khartoum governs its provinces. In most cases, loyalty is secured in return for money or political positions. In a poorly regulated marketplace, however, violence can become a powerful tool for those who seek to improve their ranking in the hierarchy of buyers and sellers – as illustrated, for example, by the armed insurgencies in the south and east of the country and more recently in Darfur.

This form of political conduct has a number of traits and implications. First of all, those governing tend to prioritize the pacification of any real or potential opposition forces, by either payments, military repression or co-optation. Hence Sudanese politics is predominantly concerned with the management of crises, not the solving of problems. Second, bargains struck tend to be short-lived: shifting market conditions encourage the periodical renegotiation of earlier deals. Consequently, uncertainty is a fundamental feature of Sudanese politics. Third, because of the need for ongoing and extensive negotiations among a wide range of stakeholders, the process of decision-making in Sudan's political arena is very time-consuming. Sudanese politics is slow and outsiders' attempts to speed things up are likely to be counter-productive. In this fragile political system, where no one enjoys complete control, stability is dependent on the inclusiveness and robustness of the deal negotiated by the best-resourced actor in the marketplace, a position the NCP has held over the last two decades.

Since achieving autonomy in 2005, Southern Sudan has witnessed the emergence of its own political marketplace, in which Juba forms the centre of patronage from where the southern establishment, for the most part grouped together in the SPLM, purchases the loyalty of provincial and local elites. The marketplaces of Khartoum and Juba are, of course, highly interconnected, with

northern and southern elites entangled in each other's systems of patronage. In the national marketplace, the SPLM has clearly remained the subordinate player. Moreover, in comparison with the northern establishment, the SPLM has much less experience of, and capacity for, managing its own marketplace, which in the longer term increases the risk of instability and political violence in the South.

4. Contemporary flashpoints

Sudan has not witnessed a single easy day since the ink dried on the CPA. Nevertheless, it is no exaggeration to say that, at present, the country truly stands at a critical juncture. Implementation of the various provisions of the CPA is running far behind schedule, while the six-year interim period is entering its final phase. With the 2010 poll and the 2011 referendum approaching, the NCP and the SPLM face a discouragingly long list of difficulties yet to overcome. Numerous potential and existing sources of conflict can be identified, some of which are expected to have a significant impact on Sudan's electoral environment.

The census and North–South border demarcation

The outcome of the general housing and population census conducted in 2008 was rejected by the GoSS amid allegations that southerners had been seriously undercounted. President of Southern Sudan and SPLM Chairman Salva Kiir and others have been unusually vocal in their insistence that Southern Sudan's population should consist of at least one-third of the country's total population of 39 million. According to the officially announced figures, however, Southern Sudan has just a little over 8 million people. The NCP and the SPLM have yet to break this impasse over the census, which has a direct bearing on the issues of power- and wealth-sharing. In addition, the parties have to reach agreement on where to draw the North–South border: a sensitive undertaking, not least because the majority of Sudan's oilfields are located in that area. Both the census and the demarcation of the border are important benchmarks for the 2010 poll, as they are supposed to provide for a representative allocation of seats in the legislature.

The referendum law

Not unexpectedly, the drafting of the referendum law proves to be a truly daunting task. The NCP and the SPLM have to decide on thorny issues such as which parts of the population should be permitted to participate in the vote on self-determination, and the percentage of votes needed for the South to legitimately claim independence. In an attempt to narrow existing differences, the NCP and the SPLM have vowed to establish a joint committee to tackle these matters. But things look far from promising. The alleged remarks of NCP officials that they “interpret the CPA as asking both the North and the South to make the separation option more difficult through the law”¹⁷ serves as an illustration of the gap to be bridged, given that an overwhelming majority of the

¹⁷ ‘Sudan NCP & SPLM form committee to review referendum law’. *Sudan Tribune*, 3 August 2009.

southerners as well as many within the SPLM are believed to strongly favour independence. Well aware of the risk that the elections might trigger a period of political disorder during which it will be difficult to enact new legislation, the SPLM is determined to pass the referendum law before April 2010.

Abyei: a never-ending story?

One of the latest and potentially most perilous sources of NCP-SPLM friction is a recent court ruling on the status of Abyei. This oil-rich border region has been heavily contested from the moment Sudan gained independence in 1956, and in mid-2008 there were fierce clashes between the northern army, known as the Sudan Armed Forces (SAF), and the SPLA. To prevent further bloodshed, the case was referred to the Permanent Court of Arbitration (PCA) in The Hague, which was mandated to re-examine an earlier verdict of the Abyei Boundary Commission in 2005 – one that the NCP had rejected at the time. In July 2009, the PCA decided that Abyei's western and eastern borders had to be redrawn. The implications of this ruling are not yet clear and are currently the subject of heated debate between the parties.¹⁸

The Heglig and Bamboo oilfields appear to be developing into the epicentre of the dispute. While the NCP is claiming that the PCA ruling means that the oilfields are now formally part of Southern Kordofan, a northern state, and that the GoSS is therefore no longer entitled to a share of the revenues, the SPLM holds instead that Heglig and Bamboo are located in Unity state and thus belong to the South. The PCA ruling has also sparked a debate on whether the Misserya inhabitants of the Abyei region, members of a nomadic tribe historically associated with the North, should be allowed to participate alongside the southern-oriented Ngok Dinka in the 2011 referendum, in which Abyei's inhabitants will decide on whether Abyei joins North or Southern Sudan. In the remaining period before the referendum, the row over Abyei will remain one of the most dangerous potential triggers for armed conflict between the NCP and the SPLM.

Elections and the Darfur crisis

The crisis in Darfur continues to cast a shadow over other issues dominating present-day Sudanese politics. Almost six years have passed since the fighting erupted between the Khartoum-based government and several rebel movements, but there is still no sign of a permanent solution to the multifaceted problems in the country's troubled western region. The protracted nature of the crisis raises serious doubts with regard to the feasibility of Darfur participating in the elections.¹⁹ Although the security situation on the ground is

¹⁸ For the South, the fact that some of the leading figures in the SPLM and the SPLA are originally from the Abyei area adds to the complexity of this issue.

¹⁹ See, for example: *Darfuris 'face election hurdles'*. BBC News, 25 July 2009.

not as deplorable today as it was in the early stages of the conflict, hostilities between the SAF and the rebel movements continue – as do banditry, vehicle hijackings and kidnappings – and a viable peace process has yet to materialize. Recent bilateral talks between the NCP and the Justice and Equality Movement (JEM), whose military supremacy over other rebel movements has enabled it to demand the highest price for its loyalty, have thus far failed to produce any tangible results and, partly owing to their exclusive nature, are not expected to do so in the near future. Hence there is little prospect that a credible peace agreement will be reached prior to the 2010 elections.

A United States Institute for Peace briefing argues that establishing a voting and electoral infrastructure in the event of continuing armed conflict in Darfur will be difficult but nonetheless feasible. Even so, poor security conditions will frustrate the registration of voters and severely hinder candidates in their campaigning activities, as well as citizens wanting to cast their vote on election day.²⁰ The fact that millions of Internally Displaced Persons (IDPs) still live in camps is a huge problem. The poor coverage of IDPs in the census, and the inability of many of them to return to their homes to register, raise fears that they will be under-represented.²¹ The exclusion of Darfur from the elections could be a recipe for more violence in the region and would obviously severely damage the credibility of the results, given that Darfur is home to almost one-fifth of Sudan's total population. Ultimately, the level of political will the NCP and the rebels display will be of decisive importance for whether, and if so how, the inhabitants of the Darfur region can participate in the forthcoming poll.

²⁰ Stephanie Schwartz (2009). *Conducting Elections in Darfur: Looking ahead to Sudan's 2009 Elections*. United States Institute of Peace, USIPEACE Briefing.

²¹ McHugh (2008).

5. High stakes, uncertain times

Without playing down the many technical and operational difficulties associated with organizing Sudan's 2010 elections, it can be said that the biggest challenges will unquestionably stem from the political context in which they are to take place. In tense and turbulent times, Sudan's ruling parties each have their own interests and objectives informing their attitude towards the forthcoming poll.

The northern establishment – muddling through in survival mode

“As the NCP approaches its twentieth year in power, the Khartoum regime continues to exercise its well-practiced ‘divide-and rule’ and ‘delay-and distract’ tactics to great effect”, Gérard Prunier and Maggie Fick aptly observe in a recent strategy paper.²² The NCP indeed continues to show great skill in managing multiple crises simultaneously so that they don't develop into substantial threats to its hold on power. But it appears unable to do little more than simply consolidate its rule, and seems to lack any real influence over the direction in which the country is heading. The indictment by the International Criminal Court (ICC) of President Omar al-Bashir, who stands accused of war crimes and crimes against humanity in Darfur, has only intensified the NCP's preoccupation with its own survival.

Given that the NCP allegedly enjoys little popular support outside its riverain constituencies, it will find the prospect of having to compete for power with other political parties fairly discomfoting. Yet the ICC indictment provides it with an added incentive to go ahead with elections and use them as an opportunity to demonstrate both the regime's resilience and its legitimacy. In the process, the NCP will want to minimize the risk that elections alter the current balance of power to its disadvantage. To this end, the party can benefit from its control over the economy and state apparatus, which probably offers it sufficient financial means to buy off potential adversaries, as well as the necessary tools to manipulate the electoral process and ensure victory.

There are clear signs that the NCP has already started doing what it can to prevent free and fair elections in April 2010. For example, it has already been quite successful in its efforts to frustrate the establishment of an appropriate legal framework for properly conducted elections. The new national press law adopted in June does not prohibit censorship or the interference by state institutions, allowing the NCP to retain its control over Sudan's main media services. Furthermore, it has so far resisted amendment of the national security

²² Gérard Prunier and Maggie Fick (2009). *Sudan: The countdown*. The Enough Project, Strategy Paper.

law, which would limit the authority of the National Intelligence and Security Services (NISS) – potentially one of the NCP’s most powerful instruments for keeping a tight grip on the electoral process and its aftermath. Hence it appears that the NCP is determined to prevent the creation of a level playing field.

Omar Al-Bashir is expected to run for the presidency on behalf of the NCP, despite the ICC indictment. A new term as president would offer him additional protection from international prosecution. As yet there is no clear evidence that the arrest warrant has weakened his position within the regime, as some analysts had predicted.²³ Ironically, the NCP can turn the ICC’s attempts to have Al-Bashir arrested to its own advantage in its bid for votes. A well-targeted campaign building on the perception that the ICC is a tool of Western interests and that Sudan is under attack by outsiders breaching its sovereignty may very well garner the party some extra support. As one resident of Khartoum stated after being asked how she felt about the forthcoming elections: “Politics don’t interest me. Normally I would never go and vote. But now, with the ICC, I might go. My president needs me.”

The chance that the NCP’s ‘play-to-win’ strategy will succeed is enhanced by the weakness of and divisions between the northern opposition parties, most of which consequently are expected to be quite willing to align themselves with the NCP – still by far the strongest actor in the marketplace. A notable exception might be Hassan al-Turabi, the ideological frontrunner and *de facto* ruler of the NCP from 1989 until his downfall in 1999.²⁴ But Al-Turabi’s Popular Congress Party (PCP) allegedly lacks the popular support necessary if he is to rise to power by democratic means. In a surprise move the Umma Party, which has maintained close relations with the NCP over the years, in July signed a declaration of principles with JEM – Darfur’s most powerful rebel movement. This can be interpreted as an attempt by party leader Sadiq al-Mahdi to drive up the price of its allegiance in the run-up to what will be decisive events for the regime’s future.

²³ In mid-August, President Al-Bashir rather unexpectedly replaced NISS chief Salah Gosh with his deputy and appointed him presidential adviser. Though not necessarily related to the ICC indictment, this move could be an indication of heightened intra-NCP tensions and/or divisions between the army and the security agencies. Gosh is considered to be one of the Islamist hardliners within the party and over the years he had developed into one of the most influential individuals in the regime. Many who have speculated on Al-Bashir’s removal in the wake of the ICC indictment believe that Gosh was, and perhaps still is, among the candidates to replace him.

²⁴ Hassan al-Turabi was suspended as chairman of the NCP and Speaker of the National Assembly after introducing a parliamentary bill that proposed to limit President Al-Bashir’s powers. It is widely assumed that Al-Bashir perceives Al-Turabi as the biggest threat to his hold on power, given that he is thought to still enjoy substantial yet latent support within the NCP, the SAF and the NISS.

The southern establishment – reaching 2011 in one piece

Four years since its installation under the provisions of the CPA, the SPLM-dominated GoSS is facing tremendous challenges. In the absence of tangible improvements in the delivery of basic social services, and given the slow pace at which infrastructural facilities are being constructed or rehabilitated, and delays to developments in the agricultural and private sector, for most southerners the ‘peace dividend’ has so far consisted of little more than peace itself. But today even that relative peace is under strain. Several southern states are plagued by mounting insecurity caused by various militia groups and inter-communal conflicts over land and livestock, which, the SPLM believes, are deliberately exacerbated by the NCP. The manifest inability of the GoSS to address this internal violence is related to its strategy of focusing mainly on external security threats, by means of defending the northern border and keeping in check any potential proxy forces for Khartoum, apparently in expectation of a return to war.²⁵ On top of this, the global financial crisis has dealt a tremendous blow to the South’s highly oil-dependent economy. As a consequence, the GoSS is struggling to pay the salaries of its civil servants and, even more alarmingly, its SPLA soldiers.²⁶

Meanwhile, the SPLM is troubled by internal divisions caused by divergent views on how to handle Southern Sudan’s current and future challenges, on whether to opt for unity or secession in the referendum, and by tribal feuds and clashing personalities. Many contemporary disputes within the SPLM can be traced back to the 1983–2005 civil war, during which the South was severely fragmented and various factions were engaged in a vicious struggle for power.

During the war, groups belonging to the Nuer, Southern Sudan’s second-largest tribe, and settled farming communities in Equatoria revolted against the SPLA, in protest at what they perceived as the authoritarian rule of rebel leader John Garang and his outspoken unionist agenda, as well as SPLA favouritism towards the Dinka, the South’s largest tribe to which Garang himself belonged. Notable in this regard was the breakaway of Nuer leader Riek Machar and Lam Akol, a Shiluk, in 1991. They went on to head anti-SPLM opposition movements and aligned armed militias before being co-opted by Khartoum and taking up formal positions in the national government. Intra-South clashes in the 1990s left many tens of thousands civilians killed. Machar, Akol and other dissidents were eventually reconciled with the SPLM in the run-up to the establishment of the 2005 peace agreement, and many of the South’s ‘Other

²⁵ Small Arms Survey (2009). *Conflicting priorities. GoSS security challenges and recent responses*. Sudan Issue Brief.

²⁶ In March 2009, SPLA war veterans staged demonstrations and paralysed business in several towns in the Southern Sudan–Uganda border area, claiming that they had not been paid for seven months. The situation returned to normal only after Salva Kiir personally visited the scene and ordered the immediate payment of two months’ salary, while promising that the rest would follow swiftly. ‘Calm returns to South Sudan border town after Salva Kiir’s visit’. *Sudan Tribune*, 22 March 2009.

Armed Groups' (OAGs), at the time loosely organised in the Southern Sudan Defence Forces (SSDF), were formally integrated into the SPLA under the terms of the 2005 Juba Declaration.²⁷

Four years down the road, the SPLM is increasingly struggling to sustain the umbrella role it acquired after the signing of the CPA and to curb the recently warring factions.²⁸ Not surprisingly, the launch of a new political party by Lam Akol in June 2009 has caused quite a stir. His formation of the SPLM for Democratic Change (SPLM-DC) constitutes the first major violation of the apparent tacit agreement among different southern groups that there is a need to stick together in the run-up to the 2011 referendum: an objective that cross-cuts tribal and ideological lines and dominates political reckoning in the South. It is doubtful whether the SPLM-DC can profit from the anti-SPLM sentiments still prevalent in some parts of the South and rally any substantial support. But the SPLM leadership will nonetheless be worried about the potential precedent set by Lam Akol's departure, especially given the party's current limited capacity to dispense patronage as a result of the financial crisis. Without money, it will be even harder to keep the fractured southern establishment together.²⁹

In light of the above, drawing up the list of SPLM candidates for the elections will be a sensitive undertaking and could trigger further unrest among the party's ranks.³⁰ The 2010 poll provides dissatisfied elite members with a unique opportunity to change the SPLM's internal power configuration. Notably, the party's leadership has still to decide who will be its contenders for the presidencies of the GNU and the GoSS respectively. Given that the SPLM's chances of winning the national presidency are slim and that southerners are expected to vote for an independent state shortly after the 2010 ballot, the prospect of running for office in Khartoum has little attraction. There is much speculation about the possibility that, under the pretext of elections, one or more political heavyweights will be sacrificed for the benefit of others who seek promotion. Any major political reshuffle in the dying months of the interim

²⁷ See John Young (2006). *The South Sudan Defence Forces in the Wake of the Juba Declaration*. Small Arms Survey. Sudan Human Security Baseline Assessment (HSBA), Working Paper.

²⁸ In particular, with the referendum just around the corner, reconciling the competing visions of national unity versus southern independence is becoming more and more difficult for the party's leadership. Though unity rhetoric has been the norm since the establishment of the CPA, some factions within the SPLM radically in favour of secession are progressively giving voice to their views, which are allegedly widely shared by the southern population. As a consequence, it is getting harder for the unionists to pursue their political agenda.

²⁹ It is therefore no surprise that the overall lack of transparency in the oil sector is a major cause of frustration for the authorities in Southern Sudan, who claim that the North provides inadequate access to information on production levels and the division of revenues.

³⁰ For a brief but insightful account of the possible impact of the forthcoming elections on the SPLM's internal dynamics, see Brian Adeba (2009). *Elections, Bankruptcy, and Ethnic Feuds Dog SPLM on 26th Anniversary*. SSRC Blogs, posted 15 May.

period is bound to lead to controversy, in particular if it concerns the presidency, and it runs the risk of widening the party's tribal and ideological divisions.³¹ In the event of an intra-SPLM crisis, the unity of the SPLA, which is still largely made up of tribal militias loyal to their respective commanders, is also under threat.³²

For now, the prospect of the referendum, and shared animosity towards the NCP, appear to be the glue that holds the SPLM together and keeps important potential party dissidents in line. As long as it manages to preserve its fragile unity, the SPLM remains the only game in town in the South. Opposition parties at present lack the strength but also the will to really challenge the SPLM's authority: they too are very well aware that only a united SPLM is strong enough to ensure that, in the end, the South will be granted its referendum. It remains to be seen whether events surrounding the elections will pose a real challenge to the consensus within Southern Sudan's political establishment that preserving the status quo is, at this point, in its best interest.

The SPLM's confidence in its national appeal has waned since the unfortunate death of its charismatic founder John Garang in 2005, and the SPLM's current leadership has spent little time and energy on winning hearts and minds outside of Southern Sudan. Consequently, the party is not expected to receive much backing in the North during the forthcoming poll. In the general elections, its main objectives will be to avoid losing too much ground to the NCP and to hold on to a minimum of 25 per cent of the seats in the National Assembly, necessary to block any unwarranted constitutional changes that could jeopardise the referendum.

³¹ Some observers predict that incumbent Vice-President Riek Machar will try to seize this momentum and they believe that he aims to nominate Salva Kiir to stand in the national presidency election, so that he can step in to become the South's next president. This would produce nothing short of a political earthquake. While Kiir is widely given credit for his efforts to preserve southern harmony, Machar is still perceived as a traitor and distrusted by many, though he has a vast group of loyal followers as well.

³² Although most of the OAGs were incorporated into the regular army under the terms of the Juba Declaration, scarcely any real integration has taken place. Therefore, it is worth keeping an eye on former SSDF leader and present-day second-in-command of the SPLA, Paulino Matip. His return to Southern Sudan after a period of time abroad, allegedly for medical treatment, has sparked some unrest among SPLM's highest cadres; several analysts expect Matip soon to develop into one of the most significant figures in the southern marketplace, as he is thought to exert great influence over those SPLA soldiers who formally belonged to OAGs, and who are estimated by some to constitute up to 70 per cent of the army's rank and file.

6. The 2010 elections: what's ahead?

Sudan is nearing the endgame of the CPA transitional period. With a multitude of thorny issues to deal with in seemingly too little time, the frequently used strategy of simply extending the search for solutions is increasingly losing its viability. The level of trust between the NCP and the SPLM is dangerously low and there are clear indications that both sides are building up their military capabilities in preparation for a possible return to war. Yet it is safe to say that neither party has a short-term interest in new large-scale armed conflict, if only because it would paralyse the exploitation of oil in their border region, with a devastating effect on their respective economies. Notwithstanding their mutual difficulties in the post-CPA era, for both the NCP and the SPLM the benefits of peace have, so far, exceeded the costs. However, it is uncertain whether the parties' capacity to manage ongoing crises and at the same time come up with adequate responses to impending challenges is sufficient to ultimately prevent a relapse into warfare. While the stakes are higher than ever before, Sudan's leaders seem to lack new big ideas and are showing signs of exhaustion.³³

What can be said about the prospects for the 2010 elections, taking into account the volatility of the current Sudanese context? The situation in Sudan is at present even more fluid and unpredictable than ever: as circumstances are changing fast, one should be very careful about predicting what the future holds. Nevertheless, four scenarios can be identified, with differing degrees of probability.

Scenario 1 – The dream (on) scenario

It is beyond doubt that free and fair elections, representing a step towards a more inclusive and representative system of governance and accountable leadership, would be the ideal state of affairs for Sudan's peace process, the country more generally, and, in effect, the stability of the wider region. In the present circumstances, however, there appears to be little likelihood of this dream being realized. Even with all the appropriate caveats in place, Sudan's political context presents an extremely unfavourable environment for an open and honest competition for power, as previous sections have shown.

The NCP is reluctant to allow meaningful national political reforms, as indicated by its selective implementation of the CPA and obstruction of any measures that would meet the key requirements for democratic transformation,³⁴ and it is expected to be capable of preventing the elections from producing any substantive change. In the South, the SPLM lacks real

³³ De Waal (2009). *The Politics of Exhaustion*. SSRIC Blogs, posted on 25 May.

³⁴ International Crisis Group (2009). *Sudan: Justice, Peace and the ICC*. Crisis Group Africa Report.

competition, as potential dissidents and opposition forces are either too weak to put up a challenge or they tend to opt for southern unity and stability in the run-up to the referendum. Therefore the chance is very slim that the forthcoming elections will be an opportunity for the Sudanese people to choose freely between different representatives, let alone that they will signal a new phase in the transition towards multi-party democracy. From the preceding analysis, three other and seemingly more feasible scenarios can be deduced.

Scenario 2 – Elections? Maybe some other time

There is a possibility that the elections planned for 2010 will be postponed until further notice or even cancelled altogether. Given the NCP's and the SPLM's preoccupation with their own survival and, by extension, that of their fragile partnership, the prospect of having to organize elections meets with little enthusiasm. "If the NCP and the SPLM can find a way to get round these elections, they will", a Juba-based observer speculated.

Yet both parties are careful about publicly expressing their qualms: neither the NCP nor the SPLM wants to be seen as the spoiler and stand accused of not adhering to the CPA implementation process, which is being closely monitored by the international community. Even so, international actors themselves are increasingly voicing concerns about the desirability of elections at the present time. They recognize the risks involved and are hesitant to dedicate energy and resources to an event that is unlikely to achieve any of its original goals. If the NCP, the SPLM and international stakeholders manage to reach consensus that the time is not ripe for elections in Sudan, there is a chance that the NEC will step in and call them off, probably justifying its decision by pointing to the many technical impracticalities. This will almost certainly spark protest from other political forces, whose grievances will need to be addressed.

For the NCP, avoiding the suspicion that it single-handedly masterminded the cancellation of the elections will be its primary concern in this scenario. For the SPLM, however, the stakes are considerably higher. It will first and foremost be worried about the implications of this move for the referendum. Particularly the secessionist faction within the SPLM will fear the precedent of skipping such an important step in the CPA trajectory and will demand firm, internationally backed guarantees that their long-awaited vote on self-determination will not be compromised. Within the SPLM unionist faction, there are some who still believe the elections represent what could be the final opportunity to transform the Sudanese state inside out and enhance the attractiveness of the 'one Sudan' option during the 2011 ballot, and will therefore be hesitant to support their cancellation.

Scenario 3 – Tick the box, back to business

Flawed elections that change the status quo little, if at all, is a likely scenario. The NCP and the SPLM are not in the mood for elections but recognize and accept that they are part of the CPA checklist. They go ahead and organize elections that mainly serve to demonstrate continued commitment to the peace agreement. However, reconfirming existing power relations, and preserving continuity, are their actual and shared objectives, which are achieved through establishing pre-electoral alliances and through striking pre- and post-electoral deals.

In this third scenario, the NCP retains its majority in the National Assembly – if necessary by co-opting other northern parties, blocking any possibility of them forming an opposition coalition with the SPLM in the process³⁵ – and manages to hold on to the GNU presidency. The SPLM is willing to accept the NCP's victory without putting up much resistance, as long as it receives in return sufficient seats in the National Assembly to prevent the manipulation of CPA provisions and to safeguard the referendum. Any outbreak of violent popular protest is likely to prompt a robust response from the NISS and other state security institutions, after which the situation will return to a relative calm.

In the event that the SPLM feels that it did not get its fair share, it will initially reject the outcome, claiming that the elections were not conducted in a proper manner. This will be followed by a period in which NCP-SPLM renegotiate until a new and mutually acceptable bargain is struck. In the South, the SPLM, still riding on the crest of the “liberation dividend”,³⁶ wins the presidency as well as a vast majority in the South Sudan Legislative Assembly. Other political forces in Sudan will be sufficiently accommodated and granted a satisfactory proportion of seats in the national and the southern legislature.

Scenario 4 – Elections: nobody wins

Contested elections that spark large-scale political violence and, in the worst case, constitute a prelude to a new war is a realistic scenario. In the heat of the elections, the NCP and the SPLM sharpen their rhetoric, which could lead to further North–South polarization and tensions over unresolved problems. In turn, this deepens their mutual mistrust as well as increasing the risk of political miscalculations. As a consequence, crucial compromises on vital issues such as the census results and the referendum law are not achieved before the poll.

In such explosive circumstances, it will be hard to establish the pre-electoral alliances and to strike the pre- and post-electoral deals that characterize the third scenario. Prior to the elections, there will be a greater likelihood of

³⁵ Gerard McHugh (2009). *National Elections and Political Accommodation in the Sudan*. Conflict Dynamics International, Briefing Paper.

³⁶ See: Adeba (2009).

political boycotts,³⁷ media harassment, the imprisonment of opposition leaders and activists, widespread insecurity and armed incidents that may involve the SAF, the SPLA and Joint Integrated Units.³⁸

In the event that the outcome of the elections is disputed, the NCP–SPLM partnership will hit deadlock and CPA implementation comes to a total standstill. The NCP might declare a state of emergency to tighten its grip on the country. Under strong international pressure, an uncertain period of crisis management and damage control is likely to follow. From there, the scenario can take any one of numerous possible directions. At worst, fears spread throughout the South that it will be denied its referendum on independence, and the SPLM will try to foster regional and international support for its unsustainable position and opt for claiming its right to self-determination by force.

Towards ticking the box

A worrying picture is painted in the scenarios described above. A sober appraisal reveals that Sudan has much to lose and little to gain from the 2010 elections. Unfortunately, they cannot be expected to bring any change for the better. Realistically speaking, a relatively peaceful rather than an open and honest poll appears to be the best possible result that could be achieved. Therefore, if elections do actually take place, efforts should be directed towards a non-violent ‘ticking of the box’ and avoiding the dreaded ‘nobody wins’ scenario.

³⁷ On 15 August, a coalition of 24 opposition groups, including the Umma Party, Al-Turabi’s PCP and the Communist Party, threatened to boycott the elections if the legal restrictions to their freedom of campaigning were not amended before mid-October. See: ‘Sudanese opposition forces threaten to boycott 2010 elections’. *Sudan Tribune*, 16 August 2009.

³⁸ The dysfunctioning of the Joint Integrated Units (JIUs) is a serious concern. The CPA stipulated that elements of the SAF and the SPLA would merge and be deployed in several parts of Sudan, including in the volatile border area. However, the process of establishing the JIUs was badly flawed: SAF and SPLM troops are in reality often neither joint nor integrated, and there is growing suspicion that the NCP is exploiting the JIUs by using them as a ‘waiting room’ for armed groups it employed as proxies in the South during the 1983–2005 war. Rather than contributing to stability in the areas where they have been deployed, the presence of JIUs has at times exacerbated local tensions and inflamed armed confrontations. See: Small Arms Survey (2008). *Neither ‘joint’ nor ‘integrated’*. *The Joint Integrated Units and the future of the CPA*. Sudan Issue Brief.

7. Considering international engagement

It hardly needs to be emphasized that the troubled state of Sudan is in need of democratic transformation. Ultimately, durable stability will be achieved only if the country's excessive centralisation of power and wealth is modified, and this calls for a change of governance. But experiences in other post-conflict countries working towards such governance reform have learned that this tends to entail a long and difficult process, in which even perfect elections can, at best, form only a first step. Moreover, the preceding analysis indicates that it is highly doubtful whether the 2010 elections will in any way serve this bigger objective. In Sudan's current complex and volatile environment, elections appear more likely to undermine than contribute to stability, and will inevitably divert attention from other pressing issues currently troubling the NCP–SPLM partnership. Most notably, preparing for the poll will eat up valuable time needed for putting things in order for the 2011 referendum and giving consideration to a post-2011 agenda, both of which are of crucial importance if Sudan is to avoid what many fear most; a contested separation.

With hindsight, the CPA's provision for mid-term elections seems fairly optimistic and not the best of ideas.³⁹ Yet, given the substantial investments that have already been made in the electoral process and the awareness among stakeholders of their symbolic significance, the chance that any real debate will open up regarding the desirability of the 2010 poll is shrinking by the day. Expectations raised over the last few months by the mere talk of elections will be hard to dampen, and donors, though fearing their possible impact, appear reluctant to publicly raise the issue of cancellation. The dictate of the CPA is the fundamental constraint in this regard, clearly limiting stakeholders' political room for manoeuvre. Since it is likely to be dealing with a *fait accompli*, the international community has to consider how best to approach Sudan's 2010 elections.

Recommendations

International donors are faced with the question of what, aside from offering technical, logistical and financial assistance, they can do to help reduce the threat of elections-related violence, and at the same time seize the few opportunities the 2010 ballot does have to offer.⁴⁰ In this regard, the following suggestions are worth serious consideration:

³⁹ As John Young already pointed out in 2007: "That the democratic accountability of the CPA is to be based on elections when the pre-conditions for holding them have such a weak basis should have been anticipated by the mediators and negotiators" (Young 2007: 31).

⁴⁰ Many suggestions for international support, which will not all be repeated here, have been made in other reports on the topic published over the course of the last few

- ***Adopt a pragmatic approach***

History teaches that the influence of outsiders over Sudan's conflict dynamics is quite limited. Ultimately, consensus will have to be built by the Sudanese themselves. In the organization of the 2010 elections and in dealing with its outcome, the NCP, the SPLM and the NEC are in the driver's seat. Consequently, international interventions should be characterized by an appropriate degree of reserve. Furthermore, against the backdrop of a looming war, the bar to achieving 'successful' elections in Sudan is not that high; averting bloodshed and safeguarding the CPA are the over-riding objectives. Therefore, when different policy options are being weighed, realistic goals should take precedence over wishful thinking.

- ***Invest in voter information and education***

For many of Sudan's citizens, participating in the 2010 poll will be a completely new experience. Therefore, there is a strong need to raise awareness about the complex procedures that accompany the conduct of the ballot, particularly in Southern Sudan and marginalized areas in the North, where unfamiliarity with the principle of elections and illiteracy rates are the highest. These activities should be well coordinated and start as soon as possible, so that the electorate is well informed about all the various stages of the electoral process. In addition, the international community could sponsor local initiatives throughout the country that enable citizens to discuss the challenge of peaceful elections and their rights and duties in a democratic society.

- ***Support Sudanese civil society actors***

Sudan's first national elections in more than 20 years provide a useful pretext for increasing international support for Sudanese civil society actors. Although most parts of the North lack the kind of environment that is conducive to such support, in Southern Sudan, targeted assistance to local non-governmental organizations, churches and religious groups, and media practitioners, could help strengthen their demand for greater inclusiveness, accountability and transparency. In addition, donors should seek to obtain the maximum involvement of Sudanese civil society actors in setting up and carrying out voter information and education programmes, and invest in the development of domestic capacity to monitor the electoral process. Ideally, increased international engagement with Sudan's civil society in the run-up to April 2010 will develop into a longer-term commitment lasting beyond the elections.

- ***Press for agreement on the census results and the referendum law***

As the final stages of the interim period are entered, international support for pushing forward with implementation of the CPA is crucial. With regard to the

months. They offer various recommendations on how to prevent gross malpractice and ensure that elections are as free, fair, inclusive and safe as they can possibly be. See, for example: Willis, El-Battahani and Woodward (2009); the Carter Centre (2009a and 2009b); and Adam O'Brien (2009). *Sudan's Election Paradox*. The Enough Project.

elections, it is vital that the NCP and the SPLM break the impasse over the census as soon as possible, in order to reach agreement on the demarcation of constituency boundaries. Also, passing the referendum law well before the events in April 2010 is of vital importance to boosting the South's confidence in the peace process and easing existing NCP-SPLM tensions.

- ***Encourage pre-election NCP-SPLM dialogue***

Owing to their inherent uncertainty and the high stakes involved, elections run the risk of further widening the divisions between the NCP and the SPLM, with potentially dire consequences. Therefore, the international community should stimulate and provide ample political space for pre-election dialogue between the two parties, so that they can develop a shared understanding of how to best manage the 2010 poll and, by extension, lessen existing fears that the winner will indeed 'take all'. New pledges of commitment to the continuation of their partnership and the trajectory as laid out in the CPA can help reduce the threat of elections-related violence. Ideally, other political forces would be included in this pre-election dialogue at an early stage.

Beyond the elections

In Sudan's unstable post-war environment, conducting peaceful elections will be a huge task that demands serious international engagement. However, in preparing its strategies on how to address the 2010 poll, the international community should not lose sight of the bigger picture. Taking the CPA milestone by milestone will leave it ill prepared for the most challenging and potentially dangerous one yet to come. The vote in 2011 on whether the South should secede will have a tremendous impact that will be felt well beyond Sudan's own borders, regardless of the outcome. With peace and stability in Sudan and the wider Horn of Africa region at stake, time is simply too short to further postpone the debate on how to work towards a credible referendum.

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Annex – List of interlocutors

Khartoum

Mr Ali Awad Abbas	Political, Economic and Trade Adviser, Embassy of the Kingdom of the Netherlands
Mr Maarten van den Bosch	Second Secretary, Embassy of the Kingdom of the Netherlands
Ms Ingeborg Denissen	First Secretary, Embassy of the Kingdom of the Netherlands
Mr Audun Skei Fostvedt	Programme Officer Political Affairs, Royal Norwegian Embassy
Ms Rut Krüger Giverin	Counsellor Political Affairs, Royal Norwegian Embassy
Mr Jorge Guzman	Principal Senior Electoral Adviser, Governance and Rule of Law Unit, United Nations Development Programme (UNDP)
Mr Ray Kennedy	Chief Electoral Officer, United Nations Mission in Sudan (UNMIS)
Mr Lars Tummers	First Secretary, Embassy of the Kingdom of the Netherlands

Juba

Mr Rainer Baudendistel	Head of Office, Assessment and Evaluation Commission (AEC)
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Ms Carola Baller	First Secretary, Embassy Office Juba, Embassy of the Kingdom of the Netherlands
Ms Sanne van den Bergh	Deputy Director, Democracy Program, The Carter Centre
Mr Freddie Carver	Governance Unit, Department for International Development (DFID) – Joint Donor Office (JDO)
Mr Mathew Dominic	Head Electoral Affairs Southern Sudan, United Nations Mission in Sudan (UNMIS)
Ms Julia Aker Duany	Undersecretary Ministry of Parliamentary Affairs, Government of Southern Sudan (GoSS)
Ms Lina Galiamina	External Relations Officer, Electoral Assistance Division, United Nations Mission in Sudan (UNMIS)
Mr Ferdinand von Habsburg-Lothringen	Technical Adviser Peace and Development, United Nations Development Programme (UNDP)
Ms Lilly Paul Jurkin	Secretary for Foreign Affairs, South Sudan Democratic Forum (SSDF)
Mr Sam Kenyi	Member of the Southern Sudan Legislative Assembly (SSLA) for the Union of Sudan African Parties 2 (USAP 2)

Mr Lawrence Korbandy	Advocate and Commissioner of Oaths, Southern Sudan Associated Advocates
Mr Joseph Kiplagat	Consul-General, Consulate of the Republic of Kenya
Mr Alfred Lokuji	Department of Peace Studies, University of Juba
Ms Wendy Marshal	Democracy and Governance Officer, United States Agency for International Development (USAID)
Ms Maya Mailer	Policy and Advocacy Adviser, Oxfam – Great Britain
Mr Daniel Deng Monydit	Chairperson Security and Public Order Committee, Southern Sudan Legislative Assembly
Ms Lana Murtazalieva	External Relations Adviser, Electoral Assistance Division, United Nations Mission in Sudan (UNMIS)
Mr John Penn de Ngong	Independent Consultant and Freelance Journalist
Mr Dirk-Jan Omtzigt	Senior Economic Adviser, Joint Donor Office (JDO)
Mr Toby Madut Parek	Member of the Southern Sudan Legislative Assembly (SSLA) and Chairman of the Sudan African National Congress (SANU)

Ms Beatrice Aber Samson	Planning and Gender Supervisor, Government of Southern Sudan (GoSS). Member of the Southern Sudan Legislative Assembly (SSLA) for the Sudan People's Liberation Movement (SPLM)
Ms Sjarah Soede	Team leader Governance & Rule of Law, Joint Donor Office (JDO)
Mr Goi Jooyul Yol	Elections Focal Point, Office of the President, Government of Southern Sudan
Other	
Mr Henk Dop	Sudan Analyst, Netherlands Ministry of Defence
Mr Roland Marchal	Senior Research Fellow, Centre for International Studies and Researches (CERI), Paris (interview over the phone)
Mr Laurie Nathan	Visiting Research Fellow, London School of Economics and Research Associate, University of Cape Town (interview over the phone)
Mr Nico Plooijer	Policy Adviser Horn of Africa, Pax Christi Netherlands
Ms Rosan Smits	Sudan Analyst – Adviser Policy and Advocacy Unit, Inter-church Organisation for Development Cooperation (ICCO)

Mr Johan Wolfs

Former Netherlands
Ambassador to Sudan

Mr Jeroen de Zeeuw

Programme Officer –
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