The regional outcome of the Comprehensive Peace Agreement five years down the road: Are external forces playing a progressive role?

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Abstract

The Sudan’s Comprehensive Peace Agreement (CPA) of January 2005 is the outcome of a regional and international mediation led by the Inter-Governmental Authority on Development (IGAD) and the IGAD Partners’ Forum broadened to include the United States of America, Norway, Netherlands, Canada, Italy and the United Nations. Five years into its implementation the peace agreement appears to have transformed the war between north and south Sudan into a series of engagements of conflicting nature. Numerous contradictory actions by both the Sudanese People’s Liberation Movement (SPLM) and the National Congress Party (NCP) (principal signatories to the CPA) have been noted during the ongoing implementation process (Grawert and El-Battahani 2005; Wassara 2008; Grawe forthcoming 2010). Although internal Sudanese forces are the key actors in implementing the CPA, external forces are critical in providing support and pressure needed for a complete realization of the peace deal. The New Regionalism Approach (NRA), as advanced by Grant and Soderbäum (2003), is instrumental in understanding this dynamic. This article is based on the result of a study that seeks to examine why positive engagements of external forces are needed for a timely implementation of the Comprehensive Peace Agreement.

Key words: The Sudan; Comprehensive Peace Agreement; Inter-Governmental Authority on Development (IGAD); New Regionalism Approach; regionalism; non-state actors; conflict resolution; International Criminal Court

Introduction

The Comprehensive Peace Agreement between the north and south Sudan has led to political and economic dynamics that, in the whole, have benefited the Sudan and her neighbors. Prior to its signing the Sudan and the surrounding region was a zone of persistent violent confrontation fueled by a civil war that endured 22 years. Regional leaders attempted to resolve the conflict through armed aggression. The border between Sudan and Ethiopia, Uganda and Sudan and even Eritrea and Sudan were crisscrossed by militias supporting either the Government of Sudan or the former rebel group, the SPLM (Woodward 2003, 32; De waal 2004,187; Cliffe

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1 The IGAD member states include Sudan, Somalia, Ethiopia, Djibouti, Uganda and Kenya. It was created in 1996 to supersede the Intergovernmental Authority on Drought and Development (IGADD) which was founded in 1986. IGADD focused on early warning system on draught and famine in the Horn of Africa region, but because there were joint security and economic challenges across the borders of the member states, the mandate of IGAAD was transformed to help cope with the situation. It is as a result of the new challenges that IGAD was established. One of its main success stories lie in mediation of the long civil war between the north and south Sudan. See IGAD homepage at www.igad.int
1999, 90; Grawert 2008). The impact on the regional economy – best described as a war economy -- was devastating.

Once mediation and not an escalation of armed aggression was pursued by the IGAD together with the IGAD Partners’ Forum, both the SPLM and the NCP could be coaxed into accepting a power and wealth sharing framework under the auspices of a CPA. Today, the SPLM and NCP struggle to implement the terms of the CPA with support from regional states as well as external partners (GOS/SPLM 2004). In the fifth year of implementation of the peace agreement external forces have become pivotal in pushing the main signatories to remain committed to the CPA. But at the same time external forces are seen as presenting a number of complications in their political and/or economic support for Sudan.

Cross border relations understood from a New Regionalism Approach

The New Regionalism Approach argues that in the context of globalisation the state has become unbundled resulting in the strengthening of traditional non-state actors. Grant and Söderbaum (2003, 4), proponents of this new way of understanding regionalism, maintain that conventional theories do not accurately portray the overlapping processes of regionalisation that continue to evolve in Africa. The concept of state has transformed; non-state actors and various types of actors can come together in diverse and complex mixed coalitions and networks. The state can be an interest group acting together with other states and non-state actors for private gains that are different from the public good or state security and contrary to liberal and realist theories (p. 5). Consequently, new regionalism looks beyond state centrisim. Research in this area must therefore focus not only on state actors but also on these newly emerged non-state actors: transnational corporations; ethnic business networks; civil society groups; think tanks; private armies; development corridors; as well as the informal border politics of small scale trade, bartering, smuggling, and crime (Grant and Söderbaum 2003, 4). The model of inter-state integration through formal institutional frameworks that previously dominated analysis of integration in Africa has increasingly been challenged by the declining control of states over their own territories, the proliferation of informal networks and the incorporation of Africa into the emerging global order.

As structured, many nation–states of Africa often lack the capacity to handle global challenges to national interests. The state is no longer the sole actor possessing a monopoly of the use of legitimate violence. Thus, in the new regionalism approach, Max Weber’s classical ideal of the state does not apply. Given this understanding, it becomes important to problematise the
state and to even view other forces (internal and external) as playing overlapping roles either in providing or undermining security, development and governance within a state.

**Pre-CPA cross-border relations and the immediate aftermath of peace**

Before the CPA came into force the interactions across the regional borders of the Sudan were predominantly violent. The war between north and south was fueled, not only by internal factors but also by external support from neighboring governments as well as insurgency and counter-insurgent groups (Cliffe 1999, 90; Grawert forthcoming 2010; Woodward 2003, 32; De Waal 2004, 187). For instance, as early as the 1990s the Sudanese government of the north benefited from fighting between the Lord’s Resistance Army (LRA) and the SPLM. Indeed it is widely accepted that Khartoum wagged a proxy war through the LRA against both the SPLA and the Ugandan People’s Defense Force. In return, the LRA obtained arms and assistance in its attempt to overthrow the Museveni regime. The SPLM, on its side, was supported by the Ugandan government with that government using the SPLM/A to wage its own proxy war against the LRA and the Government of Sudan (GOS) (Schomerus 2007, 19; Grawert forthcoming 2010). A similar dynamic existed at the Sudan-Ethiopia border. The Sudanese government accused the Ethiopians of arming the SPLM/A. Indeed the Ethiopian military government under the Derg of 1974-1991 supported the SPLA in retaliation for GOS support of the Eritrean liberation movements and other anti-Derg forces (Woodward 2003, 60; Cliffe 1999, 96; De Waal 2004, 187).

While the CPA has improved Sudan’s cross border interactions, violence lingers that can potentially derail the full implementation of the accord. Wassara (2008, 220) notes the rise in cross border cattle raiding prompted by ethnic tensions. This is particularly prevalent at border areas joining Sudan-Kenya-Uganda. This has fueled the usage of small arms in the border regions inhabited by the Toposa, Turkana and Karamajong – notwithstanding generally improved relations at a governmental level with Kenya, as marked by greater investments and Kenya’s capacity training of South Sudanese government officials. Violence, even when seemingly confined by ethnic boundaries, has the potential to spread. Wassara argues that when insufficient effort is made to prevent this type of volatility the CPA is under threat. Five years after the signing of the CPA, relations between Chad and Sudan remain tense. Khartoum has accused Chad of arming a section of the Darfur militias that has been fighting for political inclusion in the central government of Sudan. As Grawert (2010) maintains, these border tensions demonstrate the importance of managing relations with external forces if indeed peace is to be established in the Sudan.
External dynamics in the Sudan

At the core of the Comprehensive Peace Agreement is a power sharing arrangement between the NCP and SPLM on political appointments and civil service positions throughout the entire central Government of National Unity (GNU) and in the Government of Southern Sudan (GoSS). Two-thirds representation is reserved for the NCP in the GNU based in the north and 1/3 representation in the GoSS. Two-thirds representation is reserved for the SPLM in the GoSS and 1/3 representation in the GNU (GOS/SPLM/A 2004b, 2.6.1.5-2.6.2). Wealth derived from oil production from South Sudan is to be shared on a 50/50 basis after the deduction of 2% for each oil-producing state in the south (GOS/SPLM/A 2004a, 3.2, 5.5, 5.6). Furthermore the agreement stipulates free and fair presidential and parliamentary elections in July 2009 (GOS/SPLM/A 2004b, 1.8.3). According to the CPA, these elections are to be followed by a referendum on self-determination in 2011 in which the southern Sudanese will be allowed to vote either in favour of secession for South Sudan or in favour of a single country under the rule of a unified central government. The United Nations Mission in Sudan (UNMIS) is mandated by the UN Security Council (Resolution 1590, 2005) to monitor implementation of the CPA for the entire interim period extending through to the referendum in 2011.

But the question remains: Who should be held responsible for the dwindling governance programmes both in the north and south, and who must be held accountable for the slow progress in implementation of the CPA? This article looks at and discusses political and economic provisions of the agreement under contention which draw the interest of external forces. The political issues falling under this category include: elections; the referendum; the Abyei boundary controversy; and the International Criminal Court (ICC) indictment.

Although the two parties to the CPA, the NCP and the SPLM, agreed on the modalities for elections, actual implementation divided the leadership into regional blocks. The SPLM retreated to the south to concentrate on winning in its natural stronghold and the NCP focused on Khartoum and the north. Even before the electoral calendar was pushed back from July 2009 to November 2009 and ultimately to April 2010, initial observations indicated that the NCP did not demonstrate much commitment to holding elections in a free and fair manner as called for by the peace accord. However it was only after the SPLM began to voice opposition and frustration with the NCP and its undue influence over the electoral process that the dynamics shifted. There was a growing sentiment that the elections were being rigged in favour of the NCP. A report prepared by the African Union Panel on the Darfur Conflict, chaired by former South African President Thabo Mbeki, emphasized the need to create inclusive and conducive conditions for successful elections.
as provided for by the CPA. The report proposed that Sudan needed strong and cohesive leadership collectives that enjoyed the necessary confidence of the constituencies that they led (Mbeki 2009).

In addition, the SPLM complained that the results of a nationwide census (also mandated by the CPA) were purposefully manipulated to under count the southern population (especially that sector of the southern population residing in the North). This was viewed as an ongoing attempt to control wealth in the Sudan. The SPLM also claimed that the NCP was strongly undermining the logic of working towards a united country. As they put it ‘unity is continuously [being] made unattractive’.

On the other hand, the NCP took advantage of an apparent disinterest on the part of the SPLM in contesting elections to prove that the SPLM was not in fact a committed partner in the peace process. Particularly, the NCP argued that the SPLM was not ready to practice democratic tenets of governance and failed to provide good leadership within the Government of Southern Sudan during the interim period of the CPA implementation. They claimed that the southern party was disengaged from the CPA implementation process and that even the first Vice President of Sudan, Salvar Kiir (simultaneously president of the GoSS) did not take part actively in the presidency meetings because he was more engaged in southern issues, than in national issues. The NCP has taken the position that this undermines the spirit of consistency in the GNU thus propelling separation rather than unity.

With the rescheduling of election in April 2010 both the SPLM and the NCP confirmed that they were only interested in maintaining the status quo. The NCP, concerned with dominating the Northern part of Sudan, concentrated its campaign and party politics in the north. President Bashir, having been nominated as presidential flag bearer in the northern based NCP, set a tempo that negated democratic competition. Although Bashir’s campaigns stretched to the Southern part of Sudan and even into Darfur, the perception at the grassroots level was clear: Bashir would use his position to hold on to power. Opposition candidates from the marginal parties read the campaign situation early and concluded that the process was already rigged in favour of the bigger parties. The SPLM national party candidate, Yasir Arman, withdrew from elections at the eleventh hour citing unfairness and intimidation against his supporters. Perhaps knowing that he would lose to Bashir, Arman’s boycott was interpreted in some quarters as grandstanding or even a calculated compromise to his competitor. In any event Bashir was, in effect, handed a fresh mandate to rule the country in the post-CPA era.

Not surprisingly, Salvar Kiir was the SPLM presidential candidate in the South. However support for the SPLM was divided and a splinter party called SPLM-Democratic Change led by
Lam Akol, challenged Kiir’s leadership. Akol’s party registered difficulties in selling its policies to the southerners and did not gain considerable support. The new formation cited intimidation and voter bribery as some of the major obstacles that hindered competitive elections in South Sudan (*Sudan Tribune* 2010a).

It can be argued that elections were perceived as a process to legitimize President al-Bashir and a way for him to gain a mandate from the people of Sudan -- even if it was coming largely from the north Sudanese. Nonetheless it would undermine his critics and he could still argue that he remained in power through a ‘democratic’ process of elections. On the other side of the equation elections further entrenched the control of the SPLM in the south, allowing the SPLM to continue to run the affairs of South Sudan with popular backing and with the mandate to prepare for the upcoming all-important self-determination referendum.

Interestingly, although external forces had insisted, pushed and prodded the SPLM and NCP to hold timely elections, they were unable to either wrest control of the electoral process from the government or prevent the delay. Western states maintained that formal elections had to be held in order to give the people of Sudan the chance to freely choose their leaders. But in fact the elections that went forward in April 2010 were a fiasco. The European Union observer representatives claimed that they fell short of meeting international standards and were not fair. Even with the presence of observers from the region and beyond, Sudan government leaders were able to use their positions to intimidate opponents (*Sudan Tribune* 2010a). Days before the balloting began, the foundation of former United States president, Jimmy Carter, issued a report declaring that the April presidential and legislative elections remained at risk. The Carter Foundation urged Sudan to lift harsh restrictions on rallies and to end fighting in Darfur ahead of the balloting. President Bashir responded with a threat to expel any external actor critical of his government (*Kenya Nation* 2010; *Sudan Tribune* 2010b). Still, a mission from the European Parliament rationalized that although falling short of international standards, the elections were, nonetheless, a step forward in the 2005 peace process (*Sudan Tribune* 2010c).

Neighboring countries appeared disinterested in the Sudan elections and more interested in the referendum -- perhaps reflective of their own national lack of confidence in the electoral process. Kenya, for example, is no longer a case worth emulating after the bloody post-election violence of 2008. Uganda has been repeatedly accused of not complying with the principles of free and fair elections. Ethiopia has a persistent problem with violent regime change. Somalia still languishes in a difficult situation of lawlessness. Such examples present a scene that when it comes to elections, Sudan finds itself member of a club of similar players. In Africa only South Africa and Ghana present models worth replicating in the Sudan. However these states did not
voice their objections to the manner in which the elections in Sudan evaded the basic principles of ‘freeness and fairness’. It can also be argued that countries in the East African Community are more interested in the referendum than in elections because the southern Sudanese have more in common with their neighbors in Eastern Africa than they do with their northern counterpart, thus predisposed to welcoming an independent state of South Sudan. Cultural and ethnic ties straddle national borders and, in terms of economic activities, experts argue that it is cheaper to transport goods through Mombasa (Kenya) or the anticipated port at Lamu (Kenya) than via Port Sudan currently being used by Sudan in most of their transactions.

Another term of the CPA to evoke the interest of external forces is the long standing contestation surrounding the Abyei boundaries. The land conflict stems from competing claims between the Misseriya Arabs of the north and the Dinka Ngok of the south. Additionally there is conflict arising from the political control of the area: both the south and the north claim the area. The boundaries are contested. At the heart of the matter are the productive oil fields of Abyei. They have drawn heightened interest in the area and lead to Abyei’s inclusion in the protocol for wealth sharing as part of the CPA. However while oil companies from the west and from China compete over drilling and trade in the oil rich Abyei, these foreign investments are skewed towards benefiting the economies of the investors and not the Sudan.

The Abyei issue was put under direct rule of the presidency until 2011. A commission was appointed to research how best to resolve the conflict and it was mandated to report its findings directly to the presidency. But the expert report presented to the presidency in mid-2005 was rejected. The issue was therefore referred to the Hague arbitration tribunal. In a July 2009 ruling the tribunal redefined the boundaries of the disputed Abyei area. The nine Dinka Ngok chiefdoms were found to belong to southern Sudan and the Hague tribunal recommended that the Heglig oil fields be reattached to the state of South Kordofan. Both the NCP and SPLM agreed that the tribunal’s decision would be final and binding on both parties (Sudan Tribune 2009b).

A final political issue involving external forces in Sudan centres on the issuance of an arrest warrant against President Bashir in February 2009 by the International Criminal Court (ICC). Bashir was indicted on charges of crimes against humanity in connection with the war in Darfur. But when the indictment of the president is implemented while he is still in office can result into breakage of new war in Sudan. This might happen because the NCP- who are loyal to the president will aggressively protest against the move. And based on the fact that the NCP control the government machinery in the GNU, the SPLM who also want to control the state machinery view it as an opportunity to settle political problems with their partners, hence
positioning to support the warrant. In addition, the Darfur rebel groups who are anti-Khartoum regime would join the SPLM to support the course of the ICC because the case is in their favour. However, with such alliance formation, the NCP may be forced to use violence to intimidate any further discontent within Sudan. Such a move would lead into breakage of war, consequently derailing the gains made by the CPA. This argument explains the fears held by critiques of the ICC in connection with the indictment case of President Bashir. Perhaps this is one main reason as to why the African Union voiced its objection against the implementation of the warrant- given that the situation in Sudan is still complex and highly fluid.

At an African Union summit held in July 2009 in Sirte, Libya, African countries party to the Rome convention that ratified the ICC declared that they would disavow their obligations to cooperate with the ICC in arresting Bashir. Following the AU summit a handful of states (Botswana, Chad, Uganda and South Africa) retreated from this position and declared that they would be bound by the Rome treaty to honour the ICC warrant and would indeed be compelled to execute the warrant if President Bashir were to enter their respective territories. Sudanese officials are worried that other states in the continent may follow suit and that President Bashir will become isolated. Indeed Kenya stated through a foreign minister, that the AU cannot say that President Bashir is innocent: ‘We have no capacity to say that’ (Sudan Tribune 2009c).

Turning to the economic perspective, there are a number of issues that merit and/or require the participation of external forces for implementation of the Sudanese Comprehensive Peace Agreement. Upon its signing, western countries pledged 4.5 billion US dollars for two multi-donor trust funds to be established for developmental purposes. GNU and GoSS were expected to contribute their share for development expenditures from the country’s oil revenues. One fund was directed at the national level, the other to the South. The southern Sudanese fund was to be administered by the World Bank. However southern Sudanese politicians have complained that not a single cent has been released to this effect. They maintain that the donors have diverted the money to support humanitarian activities in Darfur and no longer prioritised the initially pledged support.

Observers counter that the diversion in funds to humanitarian efforts is because both the south and the north are channelling funds to building their military capacities (as attested by increased spending in military expenses and weapon purchases both by NCP and SPLM)\(^2\). In addition there are rampant claims of financial mismanagement in south Sudan. Corruption practiced by a section of Sudanese politicians is claimed as the reason that demoralised the western donors who had pledged funding for developmental initiatives in the south. This has

\(^2\) Personal interview with anonymous GoSS parliamentary official in January 2008.
drawn condemnation from both within and outside Sudan. Within south Sudan, it is claimed that government officials are unable to account for funds from the Government of National Unity. Measures have not been put in place to audit ministry accounts. An auditing department that was to be established has never come to be. Procedures for government tenders are questionable. Civil servants are rarely paid on time. Backlogs by the GoSS in salary payments to the military and teachers continue to raise tensions within the SPLM. Regional leaders have expressed dismay at the continued failure by the SPLM to take firmer initiatives to respond and correct these problems. The Eritrean president, Isaias Afewerki, launched an attack on the SPLM saying that ‘corruption in South Sudan is no secret’. He argued that it even appeared that the SPLM has lost its vision since the death of its leader John Garang in July 2007 (Sudan Tribune 2009a).

Mismanagement of public funds has had very severe repercussions, on southern based financial institutions. Whereas other banks, for instance Kenya Commercial Bank, thrive in South Sudan, the Nile Commercial Bank (a southern Sudanese establishment) has collapsed. Had there been no foreign banks in south Sudan, financial transactions required by various state institutions involving money transfers and withdrawals would have been greatly affected. Notwithstanding these challenges, there are numerous positive indications of external economic investment in Sudan. Since the advent of peace a number of Chinese and Malaysian based oil drilling companies have arrived in the country. Transnational cooperative ventures, including banks from East Africa and individual investments (some illegal) have mushroomed. There are Chinese based hotels and restaurants; supermarkets and bars owned by Ethiopians, Kenyans and Ugandans; foreign based bus companies, food suppliers (particularly from Uganda); and even a rise in the volume of consultancy firms.

**Conclusion**

Although the Sudan has a functioning government, interventions from external states and international actors continue to play a part in shaping the state. This is indeed in line with the New Regional doctrine which foresees such an increasing overlap between traditional states and non-state actors. Prior to the signing of the Comprehensive Peace Agreement we saw how both the north and the south utilized regional forces (formal and non-formal) as proxy agents in their ongoing conflict and how indeed, border tensions are still not quite fully resolved. It is clear from the discussions in this article that external forces are relevant to supporting the transformation of governance in the Sudan and supporting the implementation of the CPA and developing a state submerged in violent conflict since its naissance as a sovereign nation. In some instances the role of external forces were mandated by the CPA, as was the case of the UNMIS that was expressly
established to oversee the implementation of the peace accord, and too, the important multi-donor trust funds intended to support Sudan’s development. The referral of the Abyei matter to the Hague tribunal was an example of how external forces can step in and (hopefully) play important role in resolving an issue integral to the CPA. It still remains to be seen how the ICC indictment of a sitting head of state will contribute or adversely impact the implementation of the CPA.

Countries of Africa, particularly in the Horn of Africa, must continue developing as a peace making region in order to realize economic, social and political growth. The Sudan, therefore, is not exceptional. As many observers have pointed out, in order to realize peace dividends it is imperative that the political groups in the south and in the north engage in building a stable country. All that external actors can do is support the state building process. As can be understood from this article, such forces will not replace state leadership, nor will they become the ‘driver of the vehicle for political and economic reforms’ in Sudan. In order to have a functioning state the Sudanese people themselves have to work hard to maintain a proper balance between national sovereignty and complementary support received from sub-regional institutions, multinational corporations, international organization, and bilateral relations between Sudan and other states, in order to achieve and maintain sustainable peace and development.

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