

Sudan post-referendum issues under serious discussion

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The referendum date on self-determination for southern Sudan approaches; the people of the south will vote in a referendum on 9 July 2011 to determine their future. According to the *Nifasha* Treaty of 2005, the result of the referendum will either be secession of the south or a continuation of its union with the north. Secessionist moves are evident in the south, where a group calling itself 'youth for secession', clearly supported by the Sudanese *Peoples' Liberation* Movement (SPLM), organised two large marches through all the cities of the south, inciting people to support independence and the formation of a new southern state. On the other hand, civil associations, political parties and research institutes in the north have warned of the security hazards of secession for both the north and south. These institutions continue talking up the benefits of unity.

In the meantime, both regional and international communities are keeping a close watch on Sudanese affairs, and are keen to push for a peaceful referendum in a secure environment that does not renew the civil war, pushing one or other party into turmoil that endangers the whole region, and fuelling the furnace of instability. To avoid this possible future, a dialogue to discuss post-referendum issues between the ruling factions in Sudan – the National Congress and the SPLM – was organised under African patronage and attended by the UN. Following sessions in Khartoum and Juba on 10 and 19 July respectively, a 'contingent agreement' identifying the approach of negotiations on ten main contentious issues was announced. These issues should be resolved ahead of the formation of the two proposed states – should the south decide on secession – so that the two states can enjoy a peaceful neighbourhood.

In spite of the fact that discussion of post-referendum issues prepared the people psychologically for the possibility of secession, which greatly disturbs the north, it has been revealed that there is a very high level of interaction and dependency between the north and south, to the extent that it is difficult to contemplate how a southern state could possess the required components of a viable state that could survive independently of the north. Committees emerging from these sessions have to discuss 14 issues, and agree on them before the referendum on 9 January 2011.

These issues are:

- Nationality;
- Currency;
- Public service;
- The status of integrated joint military units and Sudanese national security;
- International agreements and treaties;
- Assets and debts;
- Oil fields, production, transportation and export;
- Contracts and the environment in oil fields;
- Water;
- Copyright; and

- Other issues.

Nationality: the problem of citizenship

There are three possibilities in dealing with the thorny issue of nationality and the question of the type of citizenship people in the south would have should they choose secession. This is particularly true for those southerners living in the north, who don't possess the basic elements to support their living in the south because they have established a livelihood in the north. According to some organisations, about two million southerners have established their lives in the north over the past decades. The three possibilities to address their citizenship question are:

1. The two states will allow interested southerners to have dual nationality. Those of dual nationality will enjoy full citizenship rights in both the north and in the south. Currently, the Sudanese constitution allows the dualism of nationality. However, northerners might also ask for the same treatment, which might not find acceptance by southerners. The option of secession might effectively be put to rest if both sides agreed on exchanging nationalities.
2. The second option is to give southerners living in the north the right of choice between the nationalities of the two states. They would be allowed citizenship in only one of the states, and would lose citizenship in the other. Northerners might reject this option because of the pressure on resources for them, and because the minority southerners will enjoy the resources of the new southern state.
3. The third option is automatically to consider all southerners as citizens of the new southern state, and ignore other factors.

Each of these options has its peculiarities and consequences in relation to people's rights and liabilities. Journalist Faisal Mohammad Saleh, quoting the warning of the Rivujo International Organization, said that a dangerous possibility is the emergence of groups with no nationality – in particular, the Bedouin, who are not affiliated to or recognised by either of the proposed states. They may be subjected to difficult humanitarian conditions as they will not have any right of citizenship.

The most important issue related to the citizenship predicament is the status of the southerners in the public service. This issue has been discussed at length since it impacts on livelihood, accommodation, health and social insurance.

The Nifasha Treaty stipulated that the proportion of southerners in the public service should not be less than thirty percent. This target has already been achieved. However, the status of this issue may change if the southerners choose separation. Difficult legal and humanitarian issues are expected to arise as a result of the loss of thousands of jobs in Sudan.

Resources: Profit and loss calculations

Following citizenship issues in importance are economic issues, such as how to deal with the assets of the Sudanese state, whether in the south or in the north. This is in addition to the sovereign debt, which is estimated at around thirty five billion US dollars. The two parties are divided on the issue of this debt. Earlier, southerners viewed this debt as the responsibility of successive governments in the north. They believed that the debt was the fuel of the war waged by the north on southerners for decades, and that the south gained

nothing from the incurring of the debt. However, it now seems that the tone has changed and both parties are accepting responsibility, notwithstanding the debt's origin and usage. Many scenarios were discussed on how to deal with the debt in the case of the separation. One scenario was to divide them according to the percentage of population.

Another post-referendum economic issue is oil. Eighty percent of Sudanese oil comes from the south, while all the infrastructure for exporting the oil is located in the north. This includes refineries, pipelines, export terminals, and so forth. Many observers view this integration and interaction in the oil economy in Sudan as an element of unification rather than separation. This was emphasised when experts pointed out the difficulty and high costs of exporting oil through the Kenyan port of Mombasa. There are many constraints that prevent exporting the southern oil through Mombasa, including:

1. The River Nile runs from the lakes area towards the north, and moving up the river – against the current – to the Kenyan port of Mombasa in the south east is difficult.
2. The distance that the southern oil has to travel to reach Mombasa exceeds 1 900 kilometres, and it has to cross very difficult and uneven topography characterised by many mountains and hills. The security in this area is also unstable; oil pipelines would be within firing range of the Ugandan Lord's Resistance Army.
3. The infrastructure of exporting oil through Mombasa, which includes refineries and terminals, is very expensive.
4. The financial costs are estimated by some sources at tens of billions of dollars.
5. Even if there was to be sufficient funding for establishing such infrastructure, its establishment would take four to five years. The present government in southern Sudan, dominated by the SPLM, cannot, however, survive for one week without the cash-flow generated by oil, which constitutes 98 percent of the financial revenues of the south.

Many experts argue that the mere economic calculation of the oil equation in relations between the south and north necessitates objective negotiations that must result in an agreement that will ensure the flow of oil exports through the north, and will raise the hope that oil could become the decisive factor in a unity deal. This unity could be encouraged by reviewing the *Nifasha* Treaty in a way that gives the south, currently taking fifty percent of the produced oil, further preferences.

Another important issue in the pre-referendum period is the issue of oil contracts and the environment. Although there are agreements that impose on oil-producing companies the maintenance of a clean environment in their geographical area of production to avoid pollution and its catastrophic impacts on the environment, many oil-producing countries have, in fact, suffered from these effects. Despite agreements on environmental conservation, poor compliance by these companies has frequently been reported, requiring re-negotiation and rigorous enforcing of controls and accountability.

It is important to note that the oil contracts were signed with Chinese, Malaysian and Indian companies in the absence of the SPLM, with the western companies boycotting Sudan for political reasons. The procurement and possession by Asian companies, led by China, of the greater share in Sudan's oil is considered one of the triggers for the struggles in the region, and a stimulus for US and EU interference in Sudanese affairs. The west is even ignoring the imminent dangers most studies have indicated exist if a separate state were to be established in the south of Sudan. These dangers weaken the

components of any such emerging state. The west is ignoring these factors, and is looking for a foothold for its investments in the south. Therefore, the contracts issue, as a post-referendum issue, aims at addressing the economic interests and greed of the west to gain investment influence in the south as a reward for its support to the south in the north-south struggle. If events move in the direction of separation and the establishment of a new country in this African region, the area would be exposed to more clashes of interest between the main economic powers.

The currency to be used by the expected southern state is not that serious an issue in the current negotiations. The two parties may agree on the continued use of the Sudanese pound, or the south may chose its own pound. In any case, the south will need to establish a monetary and banking system to meet the necessary requirements to organise the economy of the newly established state.

The Nile water is also considered an important component of the economic package to be negotiated. Observers note that the Nile, despite its importance, was not given the attention it deserved in the comprehensive peace agreement signed in 2005 between the Sudanese government and the SPLM. It was referred to in passing in the authority protocol, but not in the resources protocol. This reference makes it a matter for the central authority, without paying attention to the fact that forty five percent of the resources of the Nile river basin lie in the south, and ninety percent of the south lies in this river basin, while twenty eight percent of the Nile waters cross the border from the south to the north and then to Egypt. The total water extracted from the southern marshes and added to the totality of the Nile is about twenty cubic metres.

Despite the neglect by the comprehensive peace agreement of the issue of the Nile River, the recent call – for example, in the Entebbe agreement last May, by seven of the basin countries to confront the estuary countries, i.e. Egypt and Sudan, necessitates placing the problem of the Nile at the heart of post-referendum issues. In addition, and despite the negligence of the SPLM on this issue, all factions refer to the possibility of the south joining the complainant countries as it is part of them, and these countries are its direct neighbours who would have political and economic impacts on an independent south. The south will also require their direct support in the event that the north rejects the results of the referendum if it decides to establish a new southern state.

Another post-referendum economic issue is that of copyrights. Whether for the southerners who possess economic rights in the north, or the northerners who possess economic rights in the south, there is a great understanding of the strength of interdependence between the two. All discussions on this issue indicate that both parties are willing to maintain their rights in an open economic process between the two neighbouring countries in the case of separation. In addition to the strength of integration and interaction between the two proposed states, the benefit of this trend is supported by Sudanese experiences of economic integration across the continent and with neighbouring countries. One of the most prominent examples of these integration experiences is what is occurring between Egypt and Sudan through the agreement of the four freedoms of the people of the two countries:

6. Freedom to work;
7. Freedom of movement;
8. Freedom of residence; and
9. Freedom of ownership.

Security

While most post-referendum issues are of an economic nature, there are also issues that relate to security, which is of particular importance in a country full of potential hazards such as the non- demarcation of borders and the disagreement around them. Abyei, for example, is a sore point in this regard. The district was the site of a battle between the Sudanese army and the Sudanese People's Liberation Army (SPLA – the SPLM's armed wing) in May 2008, which was followed by an agreement on various security measures regarding the presence of the two armies. The confusion about whether Abyei will fall in the north or the south could result in serious problems. All these issues have been placed on the post-secession issues table. However, the most important of these security issues relates to the integrated joint forces. Observers believe that these forces would either be dissolved or entrusted with border security. Discussion also covers the fate of the current partnership between the security forces and the national intelligence services.

The last point of discussion between the government and the SPLM is related to international agreements and treaties signed between the Sudanese government and the international community. This issue does not seem complicated. The two parties may reach a compromise in which they both abide by previously signed agreements, while reviewing later agreements that require the commitment of each party alone. It should be noted that tension and other complications between the Sudanese government in the north and the international community will appear as a result of the separation of the south. The tension between the government in the north and the US and EU will continue for other reasons.

These are the most important post-referendum issues that are being discussed by the two sides in great secrecy. The possibility of the two sides successfully reaching agreement on these issues during the coming few months is in itself a positive sign that could lead to unity and ensure a peaceful relationship between neighbours.

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