



### RECOMMENDATIONS

- The international community should urgently provide logistical, financial and technical support for the 9 January 2011 referendum to ensure that it is not postponed.
- South Africa should use its leverage within the African Union Peace and Security Council to prepare conflict mediation and peace support operations appropriate to each of the four Mbeki scenarios.
- The South African government should engage other actors within the African Union to prepare the regional organisation's response to a possible referendum vote for separation between Northern and Southern Sudan.
- The international community should support the governments of Khartoum and Juba in the critical post-referendum phase to implement agreements reached during the current post-referendum negotiations.
- Policymakers in the area of oil governance, such as the Extractive Industries Transparency Initiative, should engage the government of Southern Sudan on the principles of transparent developmental oil governance, in preparation for the renegotiation of Sudan's oil contracts should the South gain independence, in whatever form.

## Thabo Mbeki and the 'Long Talk' to Southern Sudan's Referendum

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### EXECUTIVE SUMMARY

The negotiations between the National Congress Party (NCP) of Northern Sudan and the Sudan People's Liberation Movement (SPLM) of Southern Sudan over the possible consequences of the referendum scheduled for January 2011 in which Southern Sudan will vote on whether to remain part of Sudan or form an independent state. Of particular interest is the structure of the negotiations and the post-referendum scenarios former South African president Thabo Mbeki outlined at the launch of the talks in Khartoum during July 2010. The policy challenges Southern Sudan's referendum poses to Africa and the international community are further highlighted by the UN secretary-general's warning against actors in Sudan taking unilateral action on the issue of unity or secession. This paper draws attention to some of the internal political challenges Southern Sudan faces, regardless of whether it remains part of Sudan or chooses to strike out along the path of independent statehood.

### DEFINING POST-REFERENDUM RELATIONS

For South Africans eager to know what former President Thabo Mbeki is up to these days, the answer lies in the key issue facing the more than two million square kilometres of territory called Sudan. Mbeki chairs the African Union (AU) High Level Implementation Panel for Sudan; in this capacity he is mandated to act as chief mediator in the post-referendum talks, which are intended to clarify relations between Northern and Southern Sudan in light of the possible outcomes of the January 2011 referendum. At the official launch of the post-referendum talks between the NCP and the SPLM in Khartoum on 10 July 2010, Mbeki remarked that these talks were intended to rectify the structural imbalances inherent in the Sudanese state that have led to two civil wars and social devastation

since independence in 1956. The negotiations are anchored in the Mekelle Memorandum of Understanding signed by the NCP and SPLM on 23 June 2010 in Mekelle, Ethiopia.

The negotiations are structured around four working groups dealing with: citizenship; security; financial, economic and natural resources issues; and international treaties and legal issues. The issues addressed by the working groups make it clear that the process of dividing Sudan along the North–South borderline entails much more than casting a 'yes' or 'no' vote in the referendum. At a social level, members of the Muslim minority in Southern Sudan fear reprisals should an independent state be established. In the North, Southerners who have been living there for generations fear that an independent South may leave them stateless. The crucial issue of oil governance has the potential to raise tensions between Juba and Khartoum further. Senior officials in the government of Southern Sudan (GoSS) were earlier this year quoted as saying that a post-referendum independent Southern Sudan will initiate a comprehensive review of all oil contracts. These issues thus combine in a complex political environment that Mbeki and his team will have to manage adroitly.

Since the signing of the Comprehensive Peace Agreement (CPA), Southern Sudan has established the basic framework of a state. Yet even though Juba has been witness to a mushrooming local economy through this 'peace dividend', much still remains to be done, irrespective of whether it chooses to stay part of the larger Sudan or to go it alone. Issues such as food insecurity, the lack of physical infrastructure, its near total reliance on oil revenues (oil exports constitute 90% of the GoSS's foreign earnings), insecurity in rural areas due to ethnic clashes, tensions between nomads and sedentary agriculturalists, lack of service delivery, and fears of SPLM domination of the political system and state apparatus all combine to make the prospects for Southern Sudan unpredictable after 9 January. The negotiations mediated by Mbeki are therefore a critical mechanism whereby the post-referendum relations between North and South Sudan will be defined. Initial Southern fears that Mbeki may

be pro-unity have been allayed after he visited Southern territories and the Abyei region for popular consultations. Currently, negotiations are continuing and the parties are satisfied with Mbeki's mediation efforts.

## POST-REFERENDUM SCENARIOS

In his remarks at the launch of the negotiations in July, Mbeki outlined the following four possible scenarios for post-referendum relations between Northern and Southern Sudan.

### **1 Complete separation into two independent states**

This is the 'pure separatist' option. In terms of this option an international border will be established and all other ties between Juba and Khartoum severed. Given existing tensions regarding border demarcations, this scenario may be a recipe for reigniting the civil war.

### **2 Two independent states with an open border**

The second scenario caters for the establishment of an independent Southern Sudan, but with an open border and well-defined framework for co-operation with Northern Sudan. This scenario highlights the need to maintain strategic relations between the two states to manage the oil industry and to allow free movement of people across Sudanese territory – especially for communities that have to cross the border on a seasonal basis for cattle grazing and other economic reasons.

### **3 The confederalist option**

This scenario makes provision for two independent states that share government institutions. During the launch of the talks, Mbeki spoke about a confederal scenario. Given the need to manage several shared resource, social and political spaces, the creation of two independent states that share institutions on critical relational issues will call for compromises from both sides.

### **4 A unified Sudan**

This scenario foresees a Sudan that remains united and focuses on the internal need for development in the South and the stabilisation of Darfur.

It is necessary to acknowledge that public opinion in Southern Sudan is strongly in favour of independence. Sudan's second civil war left 2.5

million people dead, while the internal economic neglect and displacement communities suffered to make way for oil fields have created a strong anti-Khartoum sentiment. However, as a result of Northern and Southern Sudan's economic interdependence and the socio-cultural links that traverse the border, the future stability of both areas depends on a high level of policy co-ordination for the strategic management of social, economic and natural resources, and security affairs. Given these realities, the future structural and institutional relations between Northern and Southern Sudan should ideally be structured along the lines of the second or third scenarios outlined above. But the prospects for peace in North–South relations may depend on the willingness of Southern voters and hard-line elements in the SPLM to abandon the idea of total independence. On the other hand, in Northern Sudan, the question is whether elements in the military and security establishments will let the South slip away into independence without a fight.

#### THE THREAT OF UNILATERAL ACTIONS

On Saturday, 25 September UN Secretary-General Ban Ki-moon arranged a high-level meeting on Sudan on the fringes of the General Assembly. At this meeting he warned that Sudan cannot afford unilateral actions. This can be interpreted in two ways: either that Southern Sudan should avoid the temptation of unilaterally declaring independence or that elements in Khartoum should not attempt to impose unity on the country against the will of Southern voters. As it stands, the Southern referendum poses a major policy challenge to the international community due to the dire consequences that a return to conflict will hold for the continent. The UN Security Council tour of Sudan during the week of 6 October 2010, which included stops in Juba, Darfur and Khartoum, further illustrates the fact that the current political processes under way in Sudan potentially hold major consequences for Africa and the international community and therefore require vigilance and preparedness for any potential outcome of the January referendum.

The problem, however, is that between

the extremes of a return to conflict and Sudan remaining unified, there is no clarity as to the actual institutional shape, legal foundation and political-economic structures that will underpin Sudan's political system after 9 January. This situation of extreme change and political fluctuation has led South Africa's policymakers to take the above issues and uncertainties into consideration in the current 'wait and see' approach expressed by the country's minister of international relations and cooperation, Maite Nkoana-Mashabane. In a statement delivered to the High Level Meeting on Sudan, held on 24 September at the UN headquarters in New York, she called on the international community to assist Sudan with preparations for the referendum. She furthermore indicated that regardless of its outcome, South Africa will support the political processes and the outcome of the popular vote. In this regard, the minister indicated that South Africa's Independent Electoral Commission will provide assistance to the Southern Sudan referendum.

This means that Thabo Mbeki's post-referendum scenarios are the only rough guidelines available at this stage to prepare for the possible shape of North–South relations to come. If Ban Ki-moon is afraid of unilateral actions and the South African government is prepared for any eventuality, the policy message is that there is no clear answer to the question of post-referendum North–South relations, except maybe that Sudan's international partners should ensure that the CPA is not violated and that all parties inside Sudan have to 'keep on talking' to prevent a return to war. Thabo Mbeki appears to have succeeded thus far; however, the final decisions on the fate of Sudan are in the hands of Southern voters, as well as those of the NCP and SPLM elites currently in power.

#### SECESSION, BORDER BATTLES AND THE AFRICAN UNION RESPONSE

By accepting the reality of colonial borders, the Organisation of African Unity and its successor, the AU, entrenched the political-economic, socio-cultural and historical fault lines Africa inherited from colonialism. Interventions in Sudan, together with the responsibility the

AU has to facilitate processes of peacebuilding and development on the continent, compel the organisation to address a crucial issue haunting Africa: internal historical conflict within colonial borders that may result in the secession of pieces of territory to form new states.

The NCP and SPLM, as signatories of the CPA, together with regional organisations such as the Intergovernmental Authority on Development and international powers that supported the CPA negotiations such as the US, created the possibility for Southern Sudan to vote for secession from Northern Sudan. Mbeki's role as mediator and chair of the AU High Level Implementation Panel for Sudan thus brings the AU directly to confront the highly controversial issue of historically contested territories and claims for independent statehood. Interestingly, even some of the staunchest regional opponents of the idea of Southern independence, such as Egypt, have of late begun to engage with the GoSS. This does not mean that Egypt necessarily supports Southern independence, but it is grudgingly accepting the fact that it may be an eventuality to be prepared for. The unfolding saga of the new Nile Basin Initiative, which has Egypt concerned about the secure long-term supply of waters from the River Nile, may be part of the reason why Egypt wants to keep a close eye on developments in Juba. China too, still heavily criticised in Southern Sudan for its business links with and arms sales to Khartoum during the civil war, has opened a consular office in Juba and GoSS officials have shuttled to Beijing for diplomatic engagements.

The outcome of Sudan's peace process and the possible secession of Southern Sudan will have a lasting impact on the political future of other African territories. One only need think of Somaliland, the Democratic Republic of Congo (Katanga) and Ethiopia (the Ogaden), where local forces advocate secession or independence from states that are perceived to be perpetuating processes of internal colonisation. The case of Southern Sudan's claim for independence becomes more challenging due to the urgent need

for a compromise on the governance of Sudan's oil sector. Sudan is to some extent a test case for the manner in which actors within a colonial border have to bridge the political, economic and institutional gaps that separate peripheral regions from the central state apparatus and the economic processes associated with it.

### SHORT-TERM CHALLENGES

As the 9 January deadline approaches, logistical arrangements and other preparations for the referendum are becoming a major concern. The GoSS recently announced that voter registration will commence on 14 November. This leaves less than two months for the voters' roll to be compiled and for eligible voters to verify or contest it. This has both Southern voters and international actors worried about the state of preparedness for such a landmark event in the CPA political calendar.

The Southern Sudan Referendum Act indicates that in order for the referendum to be valid, 60% of all registered voters should participate. A simple 50+1% majority is needed to determine a 'yes' or 'no' outcome. At this stage there are several other concerns inside Sudan regarding the referendum: (1) the lack of progress in arranging the special referendum for the Abyei region; (2) the possibility that the Southern referendum may be postponed; and (3) continued disputes regarding the exact location of the North–South border, which impact on decisions regarding voter eligibility and may well leave contested border territories as potential military flashpoints after the referendum. However, at this stage negotiations are continuing and the shared experience of peace both Khartoum and Juba have enjoyed since the signing of the CPA may yet lead to the peaceful resolution of a monumental territorial battle.

### ENDNOTES

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