

## Sudan's Comprehensive Peace Agreement: Beyond the Crisis

### I. OVERVIEW

On 11 October 2007, the Sudan People's Liberation Movement (SPLM) announced it was suspending participation in the Government of National Unity because the National Congress Party (NCP) was not implementing key aspects of the 2005 Comprehensive Peace Agreement (CPA) that ended the generation-long, primarily North-South conflict. After months of high-level meetings, military posturing and increasingly aggressive rhetoric, the parties agreed on a series of measures and drew back from the brink. The SPLM rejoined the government, which includes a reorganised cabinet, on 27 December. The immediate crisis has been defused, but underlying difficulties remain, and the risk of significant new fighting is growing in the Abyei area. Both parties must re-commit to full CPA implementation if peace is to hold, and the international community must re-engage robustly in support of the still shaky peace deal and recognise that CPA implementation would create the best environment for peace in Darfur and beyond.

There is progress on most issues but few guarantees that the new timetables set in December will be implemented. As the parties position themselves for the scheduled 2009 national elections and the 2011 southern independence referendum, they continue to discuss a "partnership" arrangement, but three main factors still threaten the CPA. First and foremost, those who view the peace deal and the elections as a threat to their control have dominated the NCP almost since the July 2005 death of the SPLM leader John Garang. Having sidelined Vice President Ali Osman Taha, who negotiated it with Garang in the hope an electoral partnership with the former insurgents could bring the NCP a democratic victory, the regime has sought to protect its control over the state and the economy and delay elections. The NCP still wants a partnership but one that neutralises the SPLM as a national challenger and defines it as a purely southern-based junior partner.

Secondly, the SPLM remains deeply divided on priorities. The main division is between those who favour a southern-first strategy and concentrate on the 2011 referendum and those who support Garang's New

Sudan vision and want to play a role in national politics, including through open confrontation with the NCP. The latter seek to change the country's governance and address the grievances of its marginalised regions. The infighting has weakened both CPA implementation and the party's position vis-à-vis the NCP.

The SPLM has offered the NCP a joint electoral ticket in exchange for full CPA implementation, beginning with Abyei, and for the moment those pushing a national agenda have the upper hand. But the SPLM's second-ever national convention, planned for May, will be both a critically important opportunity to reconcile its competing visions and establish more transparent decision-making processes and a potentially risky occasion for leaders who face demands from multiple constituencies, including the Nuba Mountains, Blue Nile and Abyei.

Thirdly, the international guarantors and the UN remain dangerously disengaged on the CPA, due in part to preoccupation with Darfur and in part to a lack of consensus on the way forward. During the late 2007 crisis, they appeared mainly concerned about its potential impact on attempts to settle Darfur. Having concluded that it cannot rely on the guarantors, the SPLM has been building up its military capacity, which many members consider its only realistic leverage over the NCP, as well as developing alliances with marginalised movements and rebel factions within Darfur, Kordofan, the East and the far North.

Both parties calculate that a return to war is not in their best present interests, and they have more to gain working together. But there is great distrust, and each side wants cooperation on its own terms. If peace is to hold, they must rededicate themselves to the CPA and broaden its national support. The following actions are urgently needed:

- The NCP should appoint those who formed the team that successfully negotiated the CPA to lead on this file, as this offers the best chance to revive the win-win scenario that led to its signature. Such a move would be seen as a sign of good faith and re-commitment to the agreement's implementation.

- ❑ The SPLM should use its National Convention in May to resolve internal differences, adopt a clear strategy on CPA implementation and build transparent decision-making mechanisms.
- ❑ The CPA's international guarantors and partner countries should convene a conference, within the framework of the Intergovernmental Authority on Development (IGAD) or the IGAD Partners Forum, to develop a coordinated strategy on CPA implementation, including its relationship to Darfur.
- ❑ The Assessment and Evaluation Commission (AEC) should be revitalised, with an effective verification mechanism and regular meetings at envoy level. The new AEC chair should encourage its international members to actively support its work and unify their positions on issues discussed in working groups. If it cannot become more effective, key diplomatic missions in Khartoum should create a shadow AEC, free to report without the parties' constraints.
- ❑ The UN Mission in Sudan (UNMIS) should increase monitoring of flashpoint areas in Abyei and along the North-South border and negotiate with the parties to create demilitarised zones into which UNMIS forces could deploy and monitor movements of troops to help prevent local flare-ups from escalating. Regular access for UNMIS north of Abyei town has been blocked consistently by the NCP, a violation of the UNMIS mandate that needs to be remedied. The Secretary-General should require monthly reports from UNMIS for the Security Council focusing on implementation of key CPA benchmarks such as Abyei, redeployment of armed forces, the census, election preparations, fiscal management and transparency of oil revenues. The AEC's findings and recommendations should also be delivered to the Security Council via this monthly reporting.
- ❑ The international community should work closely with the national unity government on contingency planning concerning the census (particularly in Darfur) and lagging preparations for the 2009 elections.

Above all, international policies must no longer be bifurcated between the CPA and Darfur. Sudan's multiple conflicts are outgrowths of a common set of national problems and need to be treated as such.

## II. THE CALCULATIONS OF THE NCP AND THE SPLM

Tensions between the NCP and the SPLM were near the breaking point for much of 2007. The year began badly, with First Vice President Salva Kiir and President Omer Bashir exchanging angry words at January ceremonies marking the CPA's second anniversary. Kiir accused the NCP of blocking implementation and continuing to arm militias in the South. The NCP responded with serious allegations about SPLM corruption.

### A. ANATOMY OF A CRISIS

As CPA timelines slipped and relations with the NCP worsened following the death of John Garang in July 2005, the SPLM largely shifted its attention away from national issues and to implementation in the South, thereby alienating many of its own members.<sup>1</sup> Eventually, frustration crystallised around the lack of progress on the Abyei problem,<sup>2</sup> failure to redeploy the army (SAF) from the oil-producing areas and Bashir's refusal to consider the cabinet reorganisation the SPLM had been seeking since the beginning of the year.<sup>3</sup> The New Sudan camp in the SPLM had been calling for stronger action against the NCP for some time because of the violation of national-level provisions, which were not necessarily priorities for the party's southern nationalists. Positions began to merge only as it became clear that the NCP was also blocking implementation of provisions necessary for the 2011 southern referendum, such as the census, demarcation of the North-South border, Abyei and SAF withdrawal.

At the same time that the SPLM was compiling its lists of implementation grievances, the NCP was fomenting divisions within the SPLM and insisting that 90 per cent of the CPA had been implemented. Negotiations within the presidency and between the leaders of both parties continued throughout the summer, with little progress on core issues. On 11 October, the SPLM Interim

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<sup>1</sup> By mid-2006, senior SPLM officials Abdalaziz al-Hilu and Nhial Deng Nhial had both left Sudan in frustration at party policies and internal power games. Abdalaziz returned in December 2007 (see below); Nhial may return soon. Yassir Arman, one of the most senior northern SPLM officials in Khartoum, also went to the U.S. for several months in 2007.

<sup>2</sup> See Crisis Group Africa Briefing N°47, *Sudan: Breaking the Abyei Deadlock*, 12 October 2007.

<sup>3</sup> The SPLM wanted to shift the portfolios of some of its ministers. Bashir argued that any change would have to wait until the NCP was prepared to do the same with its ministers. Crisis Group interviews, senior SPLM official, March 2007.

Political Bureau (IPB) meeting in Juba<sup>4</sup> announced the party was suspending participation in the Government of National Unity<sup>5</sup> and directed presidential advisers, ministers and state ministers “to stay away from their duties [un]til considerable progress is seen in addressing the issues raised”.<sup>6</sup> It also set 9 January 2008, the CPA’s third anniversary, as the deadline for that considerable progress. While the move shocked many, it should not have. There had been many warning signs, and suspension of participation in government was one of the least radical options being considered.<sup>7</sup>

The move immediately triggered meetings between the SPLM and Bashir regarding the cabinet realignment. Much controversy surrounded what happened during those days, which highlighted the internal leadership struggles within the SPLM, particularly between the supposed “Garang Boys”<sup>8</sup> and others, such as Lam Akol, who had been foreign minister in the national unity government. While the NCP hoped that a quick cabinet deal would bring the SPLM back to government, a strategy debate within the party soon made it clear that this would be insufficient.<sup>9</sup>

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<sup>4</sup> Notably absent was then Foreign Minister Lam Akol, who was accused of being too close to the NCP and not effectively pushing the SPLM agenda; many thought the meeting was over whether to fire him.

<sup>5</sup> The reasons given were blatant lack of CPA implementation, as well as other “actions offensive to the CPA and the INC [Interim National Constitution]”, “Resolutions on SPLM Partnership with the National Congress Party (NCP) and CPA Implementation”, SPLM Interim Political Bureau, meeting no. 2/2007, Juba, 4-11 October 2007. The CPA was negotiated by the NCP and SPLM and subsequently enshrined in the INC, which was approved by the more inclusive National Constitutional Review Commission.

<sup>6</sup> Letter from First Vice President Salva Kiir to President Omer Bashir, 12 October 2007.

<sup>7</sup> Crisis Group warned in July 2007 of a high risk of renewed war due to the NCP’s systematic undermining of core elements of the CPA, Crisis Group Africa Report N°130, *A Strategy for Comprehensive Peace in Sudan*, 26 July 2007.

<sup>8</sup> The “Garang Boys”, a term coined by the NCP state-controlled media, refers to the leaders who surrounded Garang during the CPA negotiations. They include Pagan Amum, Nhial Deng Nhial, Deng Alor Kuol, Yassir Arman, Malik Aggar and Adbalaziz al-Hilu, among others from the old Leadership Council. They champion the New Sudan vision and national transformation based on full implementation of the CPA in letter and spirit. They have been targeted by the NCP, and some within the SPLM, since Garang’s death because their strategy directly challenges the NCP.

<sup>9</sup> A new cabinet list had reportedly been agreed months previously in the SPLM Interim Political Bureau, which would replace Lam Akol with Mansour Khalid. On 17 October, Bashir said a reorganisation had been agreed, with Akol as cabinet affairs minister and two other controversial figures, Telar

Within days, the NCP went on the offensive. With cabinet realignment as its starting point, state-run media circulated stories that the suspension was simply a clever way for the SPLM to hide growing internal divisions and that it was being pushed by a small faction led by Secretary General Pagan Amum, with the aim of overthrowing Salva Kiir. Ali Osman Taha – one of the “fathers” of the CPA – was brought forward to pronounce on the NCP position. Pointing to the U.S. visit of a high-level delegation including Pagan Amum at the end of September and the presence in Juba of ex-U.S. government official Roger Winter, the NCP insinuated that the SPLM was following orders from Washington.<sup>10</sup>

Both sides started military posturing, building up troop deployments along the borders, particularly around Renk in Upper Nile. Bashir called for reopening the training camps of the Popular Defense Force and for the “Mujahidin militia to be ready for anything”.<sup>11</sup> Many people were asking if the crisis presaged a new war. While that was in neither side’s interest, there was fear an unintended incident could spiral out of control. Neither wanted to risk international condemnation as responsible for destroying the CPA, but both wanted a return to the national unity government on its own terms.

In early November there appeared to be a breakthrough on most issues except Abyei. Wanting to test his options, Salva Kiir visited the U.S. in mid-November with a senior SPLM delegation and was encouraged by President George W. Bush to find a solution that would avoid war.<sup>12</sup> On 12 December, the SPLM announced a negotiated agreement had been reached on all main issues except Abyei. The parties were able to step back from the brink, but while SPLM leaders hailed the December

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Deng and Aleu Aleu, reinstated as state minister of justice and state minister of agriculture, respectively. The SPLM initially rejected the list because it was announced before Salva Kiir’s return to Khartoum. The NCP tried to persuade Kiir to keep Lam Akol and others with whom it had good working relations and not to empower the “Garang Boys” by warning of sinister plots against him by Pagan Amum. At the same time, many in the SPLM were unhappy with Lam, Telar and Aleu remaining in power in Khartoum, and some southerners felt the foreign minister should not be a northerner like Khalid. Following internal investigations which led to Telar and Aleu being expelled from the party, the “Garang Boys” were advanced, including Pagan Amum as cabinet affairs minister and Deng Alor as foreign minister. The crisis highlighted the difficulties of having so much decision-making power concentrated in Kiir’s hands.

<sup>10</sup> The SPLM/GoSS delegation to Washington in September 2007 said that their mission was designed to discuss the impact of sanctions on Sudan.

<sup>11</sup> “Tension over peace deal, but war unlikely”, IRIN, 26 November 2007.

<sup>12</sup> Crisis Group interviews, November 2007-January 2008.

agreement, the fundamental challenges to CPA implementation – the NCP's priority of regime survival and the delicate and forced nature of the NCP-SPLM partnership – are likely to remain.

With the notable exception of Abyei, there has now been some progress, though mistrust remains high. One positive development is that the SPLM has opted to tackle the issues of NCP survival and the partnership head on.<sup>13</sup> According to a senior SPLM official, the party has formally offered an electoral alliance and continued cooperation to make national unity attractive, in exchange for full CPA implementation, beginning with a resolution of Abyei.<sup>14</sup> The NCP has yet to respond directly, however, so the tensions remain, highlighting the conflicting visions within the two parties on longer-term tactics and strategies.

## **B. SPLM OPTIONS**

The debate over its aims and goals is almost as old as the SPLM itself. The movement began as a Marxist insurgency with a secular, unionist ideology, due in part to its then patron, Mengistu Haile Miriam of Ethiopia. The first South-South clashes were in 1983-1984 between the new Sudan People's Liberation Army (SPLA), as it was known, and the Anya-Nya II, a parallel movement fighting for southern independence. Though John Garang was always interested in the nature of the national union, the movement for an independent South grew steadily over the long war with Khartoum and was one of the main justifications for Riek Machar and Lam Akol to split from Garang in 1991 to form the SPLM/Nasir faction.

The divisions cost much blood during the civil war, and they run deep. Garang eventually embraced the South's self-determination, and it was enshrined in the 1994 Declaration of Principles negotiated by the regional organisation, the Intergovernmental Authority on Development (IGAD). But the tension has always existed within the SPLM between his New Sudan vision, which

preached a voluntary unity if southerners saw fundamental change in the country's governance, and a southern independence-first approach.

### **1. Visions and strategies**

One of the NCP's arguments was that the SPLM deliberately created a CPA crisis to distract attention from its divisions and allow it to focus on a common enemy. There was some truth in this. The SPLM has been dealing with serious internal tensions since Garang's death in July 2005.<sup>15</sup> The leadership splits are related to both personal interests regarding power and wealth (including scandals over corruption and "collaboration" with the NCP) and differences over the CPA and what should happen after its six-year interim period. In keeping with Garang's New Sudan concept, one group is focused on dramatic reform for the entire Sudan and thus challenging the NCP for national power. It includes northerners, those from the transitional areas and southern unionists who believe that a national strategy best protects southern rights.

The priority of others is to ensure the South's right to peaceful secession through the 2011 referendum. This group has generally supported a partnership with the NCP as a means of protecting the South, believing that the NCP would allow the referendum if the SPLM did not challenge it too directly in the North. Telar Deng, the former state minister in the office of the presidency, who was expelled from the SPLM in December 2007, explained in a recent interview:

There is an ideological struggle between those who believe in New Sudan as a strategic direction for the SPLM in the context of getting rid of the ruling National Congress Party....Nowhere in the Comprehensive Peace Agreement does it mention anything about the New Sudan. The CPA is an agreement to end the war and achieve peace and democratic transition.<sup>16</sup>

The clash between these groups was exacerbated by Salva Kiir's initial appointments to the national unity government and to the Government of South Sudan (GoSS), which gave many of the critical jobs in Khartoum and Juba to the South-first camp. This marginalisation of the "Garang Boys" led to a two-year power struggle over the movement's direction. One result was an uneven focus on CPA implementation in the South, without similar

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<sup>13</sup> Another positive development has been the formation in early 2007 of a parliamentary women's caucus. The only cross-party caucus in the National Assembly, it includes all 82 women members. The chair is Samia Hassan (NCP); the vice chair is Jemma Kumba (SPLM). Opposition parties are represented on the executive committee and in the general membership. Throughout the 2007 crisis, as tensions rose and many questioned the sustainability of the unity government, the caucus continued to meet. Looking ahead to women's participation in governance throughout the country, it will host a conference of hundreds of women legislators of all parties at national and state levels in Khartoum, 18-20 March 2008.

<sup>14</sup> Crisis Group interview, senior SPLM official, 20 February 2008.

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<sup>15</sup> See Crisis Group Africa Report N°106, *Sudan's Comprehensive Peace Agreement: The Long Road Ahead*, 31 March 2006.

<sup>16</sup> "Expelled Sudan SPLM Official accuses Salva Kiir of 'dictatorship'", *Sudan Tribune* translated from *Akhir Lahza*, 24 February 2008, at [www.sudantribune.com/spip.php?article/26133](http://www.sudantribune.com/spip.php?article/26133)

energy being given to national priorities. Representative of this (as well as a form of protest against the NCP) was how little time Kiir spent in Khartoum compared to in Juba. The SPLM only moved its party headquarters to Khartoum at the beginning of 2007, as it concentrated on implementing what concerned the South and attempting to develop the infrastructure that would be necessary for independence.<sup>17</sup> Priority protection of the southern referendum has undoubtedly been popular among the vast majority of Southerners, who would likely vote overwhelmingly for independence if the referendum were held this year.

The two visions have managed to coexist, though with difficulty, as Salva Kiir has performed a balancing act. It has helped that while their endgame views differ, they have often been able to agree on tactics. They reached a consensus at the October IPB meeting, for example, because both wanted a dramatic gesture: the CPA was being undermined not only on national issues but also on several issues that are prerequisites for the referendum, such as SAF withdrawal and demarcation of the North-South border. A sense of common tactical purpose has led to an important recent shift in SPLM strategy, to developing alliances on the national level; as all the party's elements feel threatened by CPA non-implementation, it is in their interest to increase leverage on the NCP and prepare for any eventuality.

Many in the SPLM have been wary about alliances with the traditional northern opposition parties, which do not accept outright a CPA they did not negotiate. Instead, the SPLM has been building links with factions of marginalised and rebel groups. A case in point has been its recent involvement with the Darfur rebels. Involvement with the Darfur peace process was initially at the request of the African Union (AU)/UN mediation, and at first there was little investment in it. However, in October 2007, the party decided to bring as many of the Darfur factions to Juba as possible – at one point several hundred fighters, commanders and leaders. It also invited leaders from the far North and Kordofan, as well as the Beja in the East. In early December 2007, it even invited the internationally outlawed Janjaweed leader Musa Hilal to Juba to engage with the Darfur rebels.<sup>18</sup>

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<sup>17</sup> The lack of development in much of the South and inter-tribal disputes – particularly amid various corruption scandals – has raised concerns about GoSS capacity to run a unified, independent South, post-2011. The South Sudan Legislative Assembly has been unable to pass a majority of needed laws, causing the Council of Ministers or president to issue many of them as provisional orders. Lack of laws has allowed a “wild west” environment from which many have benefited financially. Crisis Group interviews, Juba, January 2008.

<sup>18</sup> Darfur rebel factions protested, and he did not come. There was also debate within the SPLM over the invitation. Crisis

Many SPLM officials insist that the decision to suspend participation in the Khartoum government the same week as these figures from Darfur and elsewhere were convened in Juba was coincidental. Others have said that while the timing might have been coincidental, the desire to be more closely involved with the Darfur rebels was carefully weighed.<sup>19</sup> While the SPLM has stated that its objective is to help the AU/UN mediation team create a unified Darfur rebel movement, the role assigned to it in the AU/UN roadmap, it has also been working on creating an alliance with those rebels as a threat to the NCP.<sup>20</sup> The party has further agreed to integrate 2,500 Misseriya and Rizeigat – shock troops used by Khartoum during the civil war – into its southern army.<sup>21</sup> It has found willing partners because many Misseriya feel betrayed by the NCP. However, the Misseriya are also deeply divided, in part along clan and sub-clan lines. For example, the Awlad Kamel, whose migration routes pass directly through Abyei, have been linked to the recent escalation of tensions in that area and the early-March clashes in Meiram, with the likely support of some senior NCP officials in Khartoum.<sup>22</sup>

There are other indications of a recent shift towards a national agenda, including the long-awaited return of Abdelaziz al Hilu to Sudan, after almost two years in the U.S. due to frustration with the SPLM's southern focus. Half Darfuri and half-Nuba, he has immediately assumed a significant role as the party's deputy secretary general for “organisational affairs”.<sup>23</sup> He also has been appointed chairman of its Darfur task force, its special envoy there and a deputy of the committee preparing for the national convention.<sup>24</sup> His return gives the SPLM one of its most powerful political figures in the North.

Indeed, the New Sudan leadership circle around Pagan Amum has come out of the current CPA crisis well ahead.

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Group interview, senior SPLM official, December 2007. The NCP subsequently appointed Hilal, the most notorious Janjaweed militia leader in Darfur, an adviser to the federal affairs ministry (see below).

<sup>19</sup> Crisis Group interviews, senior SPLM officials, October 2007.

<sup>20</sup> Rumours of training and material support to the Darfur rebels have circulated, though it is unclear whether these were intentionally spread by the SPLM. The SPLM has proposed to hold a further round of “workshops” for the Darfur rebels in Juba; the AU/UN have been opposed, partly out of concern that the SPLM is trying to manipulate the Darfur cause. Crisis Group interviews, November 2007.

<sup>21</sup> Crisis Group interview, senior SPLA official, November 2007.

<sup>22</sup> Crisis Group interviews, February-March 2008.

<sup>23</sup> This involves coordinating activities of the northern and southern sectors, as well as those of the diaspora, and acting for the secretary general in his absence

<sup>24</sup> “El Hilu is appointed as Deputy Secretary General of Sudan's SPLM”, *Sudan Tribune*, 20 January 2008.

This likely means more SPLM support for Pagan's national transformation agenda. The party has been sending a clear and consistent message since returning to government in Khartoum, so the frequently rumoured mistrust between Pagan and Salva Kiir may be largely a matter of the past.<sup>25</sup> However, a challenge may well arise at the national convention, which is expected before May 2008.

## 2. Implications for the future

With the passing of the immediate CPA crisis, and if Sudan moves closer to elections and the referendum, the tactical consensus within the SPLM may dissolve, and the visions of its two camps may come increasingly into conflict. For those who still aim for a democratically transformed New Sudan, winning the elections in 2009 and wresting control from the NCP is critical. It would require spending energy and capital on increasing party membership in the North, building alliances with Darfurians and others and in general pursuing a more national agenda – thereby alienating the NCP. Failure to win the elections would mean new momentum for secession.

For those whose main concern is to ensure the referendum and protect ultimate Southern independence, there would be both pros and cons to weigh in any election scenario, even cancelling the vote in agreement with the NCP.<sup>26</sup> An election victory would give the SPLM more power to ensure CPA implementation but could also increase the power of other separatist parties in the South; many fear that the mere act of openly challenging it might push the NCP into torpedoing the entire CPA.

All this means the SPLM risks continued internal divisions and remains vulnerable to NCP divide-and-rule tactics. The national convention will be critical for consolidating its path and electing a new leadership.<sup>27</sup> It is also an opportunity to create more democratic internal processes, which could help build a more cohesive and loyal party, and adopt a clear CPA implementation strategy. Because it poses risks to the leadership and could potentially solidify party divisions, however, there is a possibility

it will not take place as announced, though this would be damaging to the SPLM's credibility.<sup>28</sup>

The CPA crisis highlighted how precarious the NCP-SPLM relationship is; the attempt to patch up differences has not built trust either between the parties or those they represent. Nevertheless, the SPLM's decision to return to government shows it considers a partnership within the CPA still the best game, particularly given lack of unified international support for anything different. The SPLM looks stronger now than in months past. The worst of its internal power struggles appears over, and it has strengthened its alliances with northern opposition groups, giving it political and military leverage and options. It has calculated that it still can make advances within the NCP partnership. However, it has now played its top political card, and it is unclear what options remain, short of mobilising its troops in preparation for resumed war if implementation falters again.<sup>29</sup> Continued mistrust within the presidency and the national unity government make the scenario of political disagreements quickly escalating to military ones a constant threat.

Eventually, however, the SPLM will have to make a strategic choice regarding elections, as the NCP is likely to make further CPA implementation contingent on it at least keeping open the option of maintaining that partnership through the polls. The recent offer to the NCP of an electoral partnership based on full implementation of the CPA was an attempt to satisfy both its camps. That the offer has not yet been directly accepted, and Abyei remains unresolved, is cause for concern.<sup>30</sup> If it is accepted, the SPLM will likely try to keep its camps together by continuing to build alliances with the northern opposition parties and marginalised groups in order to strengthen its hand to the point where it will be able to require terms from the NCP favourable enough both to advance a national transition and protect the southern referendum.<sup>31</sup>

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<sup>25</sup> Kiir's decision in early October 2007 to create three SPLM deputy chairpersons above Pagan and reporting directly to him, as well as the decision not to expel Akol from the party, can be viewed in the context of this mistrust.

<sup>26</sup> Delaying the census and the elections law would be consistent with such a strategy. The CPA allows for the parties to undertake a "feasibility study" to determine whether the elections can proceed as scheduled.

<sup>27</sup> It is possible, though unlikely, that even Salva Kiir's position as SPLM Chairman could be challenged.

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<sup>28</sup> The 1994 SPLM national convention has never been repeated, despite planning for a second since 2002. Crisis Group interviews, SPLM members, Juba, January 2008. The anticipated timing of the convention coincides with the beginning of the rainy season and the census, both of which could be given as reasons for postponement.

<sup>29</sup> "What will happen next time?", a Western observer asked. "The problem with the rhetoric from both sides is that it rapidly shifts to talk of war", Crisis Group interview, 17 February 2008.

<sup>30</sup> In early February, Vice President Taha travelled to Juba to meet with Kiir. He reportedly offered the NCP's terms for an electoral partnership, which were rejected. Crisis Group correspondence, 5 March 2008.

<sup>31</sup> Crisis Group interviews, Khartoum, February 2008.

## C. THE NCP APPROACH

The NCP's logic for signing the CPA rested heavily on the partnership that developed during the negotiations between John Garang and Ali Osman Taha. The two worked out the bulk of the text together and developed a strong bond, which explains in part why so many tasks are mandated to the presidency. When the negotiators hit a snag they could not immediately resolve, they often left the problem to that institution, confident they could overcome it later based on their mutual respect and commitment to the CPA. Taha took a political gamble in conceding as much as he did in the CPA, based on a calculation that an electoral partnership with the SPLM could transform the NCP from an international pariah into an internationally accepted governing party. Garang's death changed the dynamic dramatically.

### 1. Visions and strategies

Since Garang's death in July 2005, NCP actions – including manoeuvres in Darfur – have been premised on a mostly successful strategy for preserving power and control of resources. The party's tight control of the military, intelligence and oil apparatus has allowed it to hold off the political transition promised in the CPA through selective implementation, the continued war in Darfur and orchestrated unrest in the North-South border areas, but national elections present the greatest threat to that control. Given the NCP's growing unpopularity in Darfur and the apparently rising national strength of the SPLM, the NCP fears it will not be able to win on its own. Without the trust that existed between Garang and Taha to drive the process, and with Taha's subsequent marginalisation inside the party, the main effort has accordingly been devoted to keeping the SPLM weak and focused solely on the South. The shortcoming of that strategy is that it is unsustainable and likely to lead eventually to greater conflict.

Though internal SPLM problems contributed, the CPA crisis was mostly of the NCP's making. Since Garang's death, it has been doing all in its power to delay implementation on issues related to the electoral timetable in order to gain time to create alliances, organise constituencies and accumulate the kind of wealth it will need to "persuade" tribal and other local leaders. Delays in the CPA provisions dealing with democratisation and transformation allow the NCP to maintain control of political structures, while delays relating to Abyei, borders, troop redeployment and oil transparency permit it to continue to retain control of resources.

The party still wants an electoral deal with the SPLM, in order either to rig the process or to survive on the back of the more popular movement, which it would keep as the

junior, southern-preoccupied partner. To this end, it has been working at the highest levels to cement an electoral agreement with the "South first" sections of the SPLM, while pushing Salva Kiir to embrace their camp, and to sideline the "Garang Boys", particularly Pagan Amum. While the NCP does not want an independent South, it believes there is a sufficient convergence between its interests and those of Kiir and his associates. Much to its surprise, however, the SPLM emerged from the crisis over the CPA stronger, with the "Garang Boys" holding the upper hand, links being forged with the Darfur rebels and other marginalised groups and the party talking about national issues.<sup>32</sup>

The SPLM has now made an electoral partnership conditional on continued CPA implementation, while the NCP has essentially made further CPA implementation conditional on an electoral partnership. The question is which party has the greatest leverage. Although the SPLM is gaining support and its divisions appear to be shrinking, the NCP is still the majority party in government, with a tight hand on the military and economy. However, its regime is also coming under increasing economic pressure. It is running a large fiscal deficit and has trouble accessing soft loans because of U.S. sanctions. It has borrowed heavily from outside investors against future oil revenues. These factors help explain the reticence on Abyei, discussed below, and in part the recent efforts to improve relations with the U.S.

As much as the NCP is manoeuvring for an electoral deal with the SPLM, it is also preparing other options. It is trying to strengthen its base among the riverine Arabs by providing services, concluding deals and carrying out development projects. It is also trying to win back the Darfur Arab tribal leaders, who had been frustrated by broken promises of land and power. As part of this strategy, it appointed Janjaweed leader Musa Hilal, who had been showing signs of disaffection, a special adviser in the federal affairs ministry. Since then, he has been given substantial funding and has facilitated numerous tribal meetings to bring the Darfur Arabs back into the fold.<sup>33</sup> The NCP is also making overtures to the Umma Party

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<sup>32</sup> Some senior NCP elements believe the internal power struggle continues and expect that at the SPLM convention, Salva Kiir may replace Pagan as secretary general with Lam Akol, Crisis Group interviews, February 2008.

<sup>33</sup> For example, in mid-February 2008, Nafie Ali Nafie and security chief Salah "Gosh" met with the leaders of eighteen Arab and non-Arab Darfur tribes in an effort to bring them back into an alliance with the NCP and rejoin its war efforts. A second meeting is planned. The Zaghawa were not represented, evidence of the NCP's continued efforts to isolate them in Darfur. Crisis Group interviews, February-March 2008.

of Sadiq al-Mahdi,<sup>34</sup> the Democratic Unionist Party (DUP), the Popular Congress Party and the Communists, though its relationships with these traditional northern political parties remain shaky.

Finally, the NCP has an interest in improving its relations with the West, particularly the U.S. Elements of its old aggressive obstructionism remain, but it sent the foreign minister, Deng Alor (SPLM), and Presidential Adviser Mustapha Ismail (NCP) to Washington in February 2008 to seek normalisation. The delegation agreed with senior U.S. officials on a timetable and benchmarks for this, as well as for lifting of sanctions and removal of Sudan from the state sponsor of terrorism list. This would be contingent, however, on full CPA implementation, beginning with Abyei, and resolution of the Darfur conflict.<sup>35</sup>

The NCP knows the Bush administration would like a Darfur solution before the November 2008 U.S. elections and that it and others are interested in a unified Sudan. The party fears that a possible Democratic administration in Washington in 2009 would take a tougher position, less influenced by the NCP's cooperation in the "war on terror", so it wants to reach an understanding still this year. The NCP portion of the recent cabinet realignment, including the shift of Awad El Gaz from the very powerful energy ministry to the finance ministry, can be interpreted as a goodwill gesture to the SPLM, part of a willingness to improve transparency in the oil sector.<sup>36</sup>

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<sup>34</sup> The Umma Party is trying to negotiate a common understanding on the elections and a transition between the political forces, including a transitional justice mechanism with a safety net for the NCP should it lose elections. The Umma Party fears that the NCP's lack of a peaceful survival strategy means could lead to chaos and that it is in the national interest for all parties involved to reach a common understanding on transition ahead. It has received positive feedback from the NCP at the highest levels, as evidenced by a warming of relations between its chairman, Sadiq al-Mahdi, and President Bashir. Crisis Group interview, 17 February 2008.

<sup>35</sup> Since these discussions, all parties have sent inconsistent messages. Deng Alor (SPLM), the foreign minister, has said normalisation of relations will take four to six months; the U.S. has stated that a resolution of the conflict in Darfur is a prerequisite for progress; senior NCP official Nafie Ali Nafie attacked the U.S. and Secretary of State Condoleezza Rice days after the Washington meetings, warning that Sudan would never yield to pressure. "Washington demands Darfur resolution before ... [normalising] ties", *Sudan Tribune*, 25 February 2008; "Senior Sudanese official lashes out at U.S. Secretary Rice; warns UN", *Sudan Tribune*, 19 February 2008; and Crisis Group interview, 14 February 2008.

<sup>36</sup> Crisis Group interviews, Khartoum, February 2008. Some, however, dismiss this move as little more than one of musical chairs.

While many observers contend there is dissension within the NCP, most notably between Taha and Nafie Ali Nafie (reflected in the sidelining of Taha over the past year), it is most likely exaggerated by the NCP for public consumption. There are, however, differences in approach between Taha and Nafie over the NCP's best strategy for long-term survival, including on CPA implementation and resolution of the Darfur crisis. The appointments of an easterner, Ibrahim Mohamed Hashim, as internal affairs minister and of a relatively widely acceptable justice minister, Abdel Bassit Sabdarat, can be seen as efforts to widen the party's reach.

## 2. Implications for the future

The NCP is doing contingency planning for all possible scenarios and remains the best organised political force in the country. In its ideal scenario, it would be able to maintain national control throughout the interim period by continually delaying CPA implementation, keeping Darfur in a state of insecurity and persuading the SPLM to stand for the elections as its junior southern partner. However, this would only get the NCP through the elections. Assuming it manages to remain in power, the 2011 southern referendum would be the next hurdle.

There is presently a great deal of southern support for secession – an outcome which not just the NCP but much of the North seeks to avoid. The NCP will likely do all in its power to ensure that the South does not secede. Tactics can include delaying the referendum, undermining the SPLM leadership, preventing the GoSS from functioning effectively and strengthening the army (SAF) and the paramilitary, intelligence and security apparatus in the lead-up to the referendum. In the disputes with the SPLM over Abyei, redeployment, and North-South border demarcation, it is trying to arrange the border so that as many of the oilfields are placed in the North as possible and to keep the border area as insecure as it can for as long as possible. For some time and in preparation for possible secession, it has allegedly been encouraging depletion of oil wells in highly contested areas such as Abyei.<sup>37</sup>

The NCP will hinder CPA implementation as long as it fears elections and the referendum; the SPLM may have to decide how much, if any, of the CPA it is willing to compromise on to move forward. But the NCP also needs to show good faith. Vice President Taha was key to the agreement's signature. Designating him as the NCP point man for CPA implementation would be a sign that the party is serious about its commitments and ready to return to the positive strategy that initially led to signature of the agreement.

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<sup>37</sup> See Crisis Group Briefing, *Breaking the Abyei Deadlock*, op. cit.



### III. THE MAIN ISSUES AND CHALLENGES

Though the SPLM listed eight issues as justification for its suspension, five have been cited as particularly egregious: Abyei, redeployment of forces, the census, demarcation of the North-South border and oil sector transparency.<sup>38</sup> All these impact upon the ultimate division of wealth and power and have a direct bearing on elections and the referendum. Most are also related, explicitly or tangentially, to oil, which is the lifeline for both the NCP in the North and the GoSS in the South.

#### A. ABYEI

During the CPA negotiations, the disputed area of Abyei was among the most contentious topics.<sup>39</sup> In the end, it was granted a special administrative status, with the right of a referendum on whether to remain part of the North or join a potentially independent South. The NCP and SPLM agreed to establish the Abyei Boundaries Commission (ABC) to determine the geographic boundaries defined in the Abyei Protocol. The international experts on the commission decided the borders after NCP and SPLM delegations failed to agree. When the report was presented to the presidency on 14 July 2005, the SPLM endorsed the findings and the NCP rejected them, claiming the experts had exceeded their mandate.<sup>40</sup> Because of this deadlock, Abyei's status remains undetermined, and no formal administrative structures – temporary or permanent – have been put into place.

While many issues are at play in Abyei, the main motivating factor behind NCP intransigence appears to be oil. With the majority of Sudan's reserves in the South, the NCP has a major interest in maintaining as great a percentage as possible in the North and avoiding the revenue-sharing provisions for oil within the borders set by the ABC. According to those borders, Abyei includes

three major oilfields, whose 2005-2007 revenues were roughly \$1.8 billion.<sup>41</sup> After the SPLM suspended its participation in the national unity government, Abyei became the single largest point of contention. In addition to the concrete element of the deadlock – particularly the renewed clashes and rising tensions between the Ngok Dinka and the Misseriya – there is a symbolic aspect.

For the SPLM, the NCP's refusal to abide by the ABC report represents all that is going wrong with CPA implementation. Nevertheless, some in the South see Abyei as a "Ngok Dinka issue", important because there are many Ngok Dinka in senior SPLM leadership positions but not worth risking the rest of the CPA over.<sup>42</sup> The NCP tried to play to this attitude during the CPA crisis negotiations and to an extent was able to isolate the Abyei issue. It is surprising the SPLM leaders agreed to end the crisis in December 2007 without receiving a new commitment to implement the Abyei Protocol or recognise the ABC report. According to some in the SPLM, the fact that the issue was moved out of committees and directly to the presidency was sufficient.<sup>43</sup>

Others have said that if Salva Kiir had consulted the full IPB, the SPLM would not have returned to government so soon. A further theory is that he received strong messages during his November 2007 Washington visit that the U.S. would not support the SPLM if it resumed the war.<sup>44</sup> There was a commitment when the SPLM returned to government on 27 December that the issue would be resolved by 9 January 2008. Nevertheless, though the NCP made a new proposal to expand Abyei's territory to include the oil areas of Muglad and Al Fula (and, by implication, the Misseriya populations), the SPLM has not accepted it.<sup>45</sup>

Abyei will continue to be problematic in the short term because of SPLM-NCP difficulties, growing local tensions between Ngok Dinka and Misseriya, the presence of large SAF army and SPLA forces in the area and its potential to worsen the internal SPLM rifts. It risks triggering a crisis that could quickly become national. The situation is exacerbated because the UN mission (UNMIS) is restricted from moving north of Abyei town. It has almost

<sup>38</sup> All these have been flagged by Crisis Group as problem areas requiring greater international attention. See *ibid*; also, Crisis Group Report, *A Strategy for Comprehensive Peace in Sudan*, op. cit.; Africa Report N°106, *Sudan's Comprehensive Peace Agreement: The Long Road Ahead*, 31 March 2006; Africa Briefing N°30, *Garang's Death: Implications for Peace in Sudan*, 9 August 2005; and Africa Report N°96, *The Khartoum-SPLM Agreement: Sudan's Uncertain Peace*, 25 July 2005.

<sup>39</sup> Crisis Group Briefing, *Breaking the Abyei Deadlock*, op. cit.

<sup>40</sup> For an excellent explanation of the ABC report, the commission's mandate and the NCP's arguments, see Douglas Johnson, "The Abyei Protocol Demystified", 11 December 2007, at [www.sudantribune.com/spip.php?article25125](http://www.sudantribune.com/spip.php?article25125)

<sup>41</sup> See Crisis Group Briefing, *Breaking the Abyei Deadlock*, op. cit.

<sup>42</sup> This position (and a defence of Lam Akol) was articulated by Presidential Adviser Bona Malwal, a member of the South Sudan Democratic Forum (SSDF) and ardent secessionist, in his paper "The Future of the Comprehensive Peace Agreement", at a symposium organised by the SSDF on 12 December 2007.

<sup>43</sup> Crisis Group interviews, SPLM leaders, Juba, January 2008. According to these interlocutors, the talks have advanced at the presidency but are being kept out of the media spotlight.

<sup>44</sup> Crisis Group interviews, November 2007-January 2008.

<sup>45</sup> Crisis Group interviews, Khartoum, February 2008.

unravelling several times since late December 2007, with clashes between the two armies, as well as between the Dinka and Misseriya, near Meirum, in northern Bahr el Ghazal and, most recently, in Unity state.<sup>46</sup> The immediate trigger for the latest fighting was a car crash north of Abyei town on 7 February 2008 that escalated to shooting between an SPLM convoy carrying a local commissioner and an SAF truck. Both forces lost men and at least one Misseriya was killed.<sup>47</sup>

Tensions were already high following reports of a speech at the funeral of senior SPLM official James Ajiang in which a local dignitary reportedly denied Misseriya rights to live in the area and announced the appointment of SPLM commissioners for Abyei county. Party representatives claimed these statements were misrepresented, and indeed there was a worrying string of misinformation and incendiary reporting falsely alleging atrocities by both the Dinka and the Misseriya.<sup>48</sup> Combined with the SPLM's earlier appointment of ex-security chief Edward Lino as its administrator for Abyei, however, the Misseriya interpreted them as unilateral SPLM implementation of the ABC and blamed the NCP for acquiescing.

The Misseriya temporarily blocked the North-South roads through Abyei.<sup>49</sup> A Misseriya movement calling itself the Abyei Liberation Front emerged in mid-February and announced a new state of Grand Bahr al-Arab, with Abyei as its capital, headed by Mohamed Omer al-Ansari. This responded to the SPLM's appointment of Lino and again raised the stakes. SPLA/SAF Joint Integrated Units (JIUs) were able to reopen the road for convoys by mid-February, but tension is likely to persist until a comprehensive political deal is reached. Heavy fighting in Meirum in early March 2008 reportedly saw at least 40 people killed and an SPLA camp overrun by Misseriya elements, leading Salva Kiir to warn of a possible return to war.<sup>50</sup>

The issue at the local level is directly tied to Misseriya grazing rights. Though the first clashes occurred in late December 2007, the events were triggered in late November, when trouble first began between armed Misseriya herdsmen moving south with their cattle and the SPLM, which promised safe passage but insisted on disarming them first. There are elements among both the Misseriya and the NCP who wish to use violence to

force a de facto re-negotiation of the Abyei agreement, or even the collapse of the CPA. At the same time, many Misseriya and Ngok Dinka leaders have been working at the local level to safeguard the peace and prevent a larger conflict. The SPLA/SAF Abyei Security Committee has been functioning well, and two local meetings between tribal leaders have taken place. The international community should continue to encourage and support these meetings and actively expose those working to fuel conflict, including through the systematic spread of misinformation.

The situations in Abyei and Southern Kordofan<sup>51</sup> pose a serious challenge to the NCP-SPLM partnership. The Messeriya accuse the NCP of cutting a deal with the SPLM, citing the lack of response to the Lino appointment. They believe the NCP is stymied by international criticism and pressure and wants the Misseriya to fight the war for it so it can keep its hands clean. But they also believe they must defend their historical rights of passage, which extend well south of Bahr al-Arab (River Kir), and argue that the ABC report cannot be implemented. If the presidency does not come up with a solution, some Misseriya, perhaps supported by the NCP, might try to create new conditions through a limited conflict that would necessitate a new agreement/protocol going beyond the Abyei Protocol. It is uncertain whether the SPLM-NCP partnership could survive a scenario in which the two parties supported their respective Abyei allies: the Messeriya, who fought the NCP's war for many years, and the Ngok Dinka, who are caught in the politics of land and oil.<sup>52</sup>

For these reasons, Abyei needs increased international attention. While the SPLM has shown considerable flexibility in negotiations, the fundamental problem remains the NCP's refusal to accept the ABC report. There are win-win solutions in Abyei for the two parties, as well as for the Ngok Dinka and Misseriya, but they begin with the NCP accepting what was supposed to be a final and binding boundary report. Negotiations are continuing between the SPLM and NCP over formation of a local administration, but the international community must play a stronger role here. At the same time, it should continue to facilitate local dialogue between Misseriya and Ngok Dinka, and develop and strengthen guarantees for continued Misseriya access to grazing rights beyond 2011 (should Abyei vote to join an independent South).

Local dialogue can help in finding a solution to the substantive problems on the ground, such as grazing,

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<sup>46</sup> "Fresh Fighting in Sudan's oil region: South leader", Agence France-Presse, 10 March 2008.

<sup>47</sup> Crisis Group interview, 12 February 2008.

<sup>48</sup> Crisis Group interview, Khartoum, 21 February 2008. "SPLM: Misseriya are guests, have no rights in Abyei", *Rai alShaab*, reported by UNMIS media monitoring on 10 February 2008. Crisis Group interview, 6 March 2008.

<sup>49</sup> *Ibid.*

<sup>50</sup> "Kiir warns that war could return", *Gurtong*, 4 March 2008.

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<sup>51</sup> Abyei has a special administrative status under the presidency but is geographically between Southern Kordofan and Northern Bahr el-Ghazal states.

<sup>52</sup> Crisis Group will discuss this situation in detail in a subsequent report on South Kordofan.

land and access to water. Agreement between communities on these issues would have a greater chance at sustainability, even beyond 2011. To the maximum degree possible, the local consultations should feed into the political talks between the SPLM and NCP – a lesson that holds for communities all along the North-South border. Likewise, the parties should be encouraged to consider creative solutions on oil and revenue sharing beyond 2011. Finally, UNMIS should negotiate with the parties to redeploy troops to the area to guard against conflict between the SAF and SPLA and, if necessary, between Dinka and Misseriya.

## **B. REDEPLOYMENT OF FORCES**

One of the outstanding problems has been over the redeployment of forces, which was to have been completed by 9 July 2007, with security assured in border areas by the JIUs. The SPLM claimed the NCP had not removed the army from the oil-producing areas as agreed. It also claimed there were still 15,000 SAF in Unity state and 3,000 in Nile state. The NCP argued that, despite the lack of movement from the oil areas, 87.4 per cent of the SAF in the South had been redeployed north of the 1956 line, and there were but 3,600 left in the entire South, while only 6.9 per cent of the SPLA in the North had been redeployed south of that line.<sup>53</sup>

The hesitancy on redeployment – from both sides – stems from several sources. First, there are questions about how well the JIUs are functioning, as the SPLA and SAF contingents within many of them are not yet integrated or operating under a common leadership and military doctrine. The SPLA also claims the SAF is contributing ex-militia, not regular forces, to the units. Secondly, as described above, considerable insecurity remains in the border area, particularly around Abyei and Southern Kordofan.<sup>54</sup> Finally, with North-South border demarcation still pending, there is space for both sides to argue over how far each should redeploy.

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<sup>53</sup> Ceasefire Joint Military Committee (SAF, SPLA and UNMS) report of 20 August 2007, as reported in the “Implementation Progress Report” released by the justice minister in November 2007.

<sup>54</sup> Both sides agreed to withdraw to either side of the river. Reports indicate that it has been predominantly NCP-backed Misseriya Popular Defence Forces (PDF) that have been clashing with the SPLA; they are said to be well-armed, with mounted guns, and the SPLA is said to be quietly reinforcing. Reportedly, there was some movement in the South Sudan Legislative Assembly to acknowledge officially the “undeclared war” in the area, but this was stopped by those in the SPLM who did not want to be seen as returning to war. Crisis Group interviews, Juba, January 2008.

As part of the 12 December 2007 agreement, the parties agreed on a new redeployment timetable. The initial 15 December withdrawal deadline was missed and reset to 31 December. When that also was missed, the Joint Defence Board on 5 January 2008 issued a final redeployment deadline of 9 January and agreed to deploy JIUs in the oil production areas.<sup>55</sup> The SAF was reported to have pulled out of Unity state and the SPLA to have left Southern Kordofan and Blue Nile by that deadline, but the SPLA claimed a week later that there were still army troops south of the border, and many of those that had moved had not gone the required 10-20km from the border. The SAF allegedly told the SPLA it needed to move even further south of the Kiir River, towards Aweil.<sup>56</sup>

When the rainy season comes in late April, the capability of the forces to move – as well as the incidence of clashes – will likely be greatly reduced. In the meantime, the renewed fighting in Abyei/Southern Kordofan and Unity state, the continued disputes over redeployment and the JIUs’ uncertain capacity to maintain security in the oil-producing areas highlight why it is important for UNMIS to monitor the zone more tightly and consider negotiating a demilitarised zone along the North-South border. For this to occur, the NCP and SAF must urgently lift their restrictions on UNMIS movements north of Abyei town, and UNMIS and the international community should provide support for the JIUs, particularly in the oil areas.

## **C. CENSUS**

According to the CPA, a nationwide census should have been conducted by the end of the second year of the interim period (July 2007). It would provide baseline information, which could be used for development and services across the country and determine electoral constituencies and the appropriate representation of North and South at the national level (with power-sharing percentages “either confirmed or adjusted on the basis of the census results”),<sup>57</sup> as well as verify voter registration figures. For these reasons, the census, and how it is conducted, is both a highly charged issue and a prerequisite for elections.

One of the SPLM’s major complaints was that the NCP was dragging its feet on releasing the funds necessary for the census, feeding suspicions that it was seeking to delay the elections. Funds for the pilot census held in

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<sup>55</sup> JIU relationships with the oil police in the area remain an issue, however.

<sup>56</sup> “Salva Kiir says refused to withdraw troops far from South Sudan border”, *Sudan Tribune*, 21 January 2008.

<sup>57</sup> Comprehensive Peace Agreement, 1.8.9.

April 2007 were also held up.<sup>58</sup> As part of the December 2007 agreement, however, the NCP agreed to release the money; reportedly it has now done so, and the census is scheduled for April 2008.<sup>59</sup>

Even with funding resolved, a successful census still depends on many issues. These include border demarcation, the security problems in Southern Kordofan, Unity and Jonglei states,<sup>60</sup> training of the census-takers and a solution to logistical problems, such as lack of roads in many areas, distribution of materials and the start of the rainy season.<sup>61</sup> Even more problematic is the way in which “technical” census decisions appear to be increasingly politicised, in an apparent bid by both the southern and northern census commissions to make things more difficult for each other. For example, the northern body has been insisting that mapping should be done digitally, which is not technically possible for the southern body, which has only sketch maps.

The northern commission insisted that non-digital maps can be tampered with, while the southerners feared such claims were meant to prepare the way for objections to southern information. A solution on this issue has since been negotiated. Aggravating the situation, however, direct communication between the commissions has been non-existent. Donors and other international partners have had little access to the northern commission; some of their staff has even been thrown out of the country for questioning its decisions. The southern commission has been dragging its feet on finalising enumerated areas in the South,

since it wants to claim the biggest number possible, but this makes it hard for the North to release money.<sup>62</sup>

Finally, the deteriorating security situation in Darfur and the dwindling hope for a quick political solution there further complicate matters. Those closely involved with the census agree it would be very difficult to conduct it at present in Darfur, a point that some of the rebel leaders have started to make as well.<sup>63</sup> There will either need to be a contingency plan for Darfur, outside the normal provisions of the CPA – for example, assigning the region a provisional number of constituencies, or holding only partial elections – or the entire electoral timetable will need to be reworked. Many of those in internally displaced person (IDP) camps in Darfur do not want to be counted in those camps for fear that the government would use the information to break up ethnic groups or make their separation from their land permanent. There is little understanding and information in Darfur about the census and its purpose. The rebel movements, whose real political constituency remains uncertain, are suspicious of the census because they see it as a step towards elections for which they are not prepared.

The delays in the census and other preparations, such as passage of the national elections law,<sup>64</sup> mean that the electoral timetable is severely behind schedule. According to the CPA, the general elections “shall be completed by the end of the fourth year of the Interim Period”, that is July 2009.<sup>65</sup> This is the latest they can be held without needing to revisit the CPA and the Interim National

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<sup>58</sup> The SPLM was also unhappy that questions on ethnicity and religion were removed from the census questionnaire, despite reportedly having agreed to this. The confusion over the SPLM position was another sign of the party's internal problems. SPLM officials now say the questions are important to show the country's large percentages of non-Muslim and non-Arabs, as well as to help southern leaders establish the size of their tribal constituencies. Crisis Group interviews, October 2007 and January 2008.

<sup>59</sup> Crisis Group interview, 20 February 2008.

<sup>60</sup> In Jonglei state, the SPLA is again conducting “voluntary” disarmament, after the deadly violence there in 2006 during its forced disarmament campaign. The current efforts directed towards the Murle militia, which has failed to disarm despite an agreement between the GoSS and Ismail Konyi, could potentially become “forced” disarmament under the new governor, Kuol Manyang, with accompanying violence. Three SPLA battalions have been sent to the area. Crisis Group interview, February 2008.

<sup>61</sup> Technical experts have said they have been advising the census be postponed until after the rainy season, that is until the end of 2008 or the beginning of 2009, Crisis Group interviews, Juba, January 2008.

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<sup>62</sup> Crisis Group interviews, January 2008.

<sup>63</sup> In its “Factual Report on the Status of CPA Implementation”, October 2007, the Assessment and Evaluation Commission said, “[t]he census in Darfur is also an issue that must be addressed”. The UN Populations Fund (UNFPA) recently sent an expert to Darfur to determine the feasibility of conducting the census.

<sup>64</sup> The national elections law was slated for adoption in April 2007, then in October. Although the legislative session was extended to mid-January 2008, this did not happen. The next session opens in April, though the government has said it intends to convene an extraordinary session. The SPLM and the NCP still disagree over details of the electoral system. For example, while the draft stipulates that 60 per cent of representatives will be elected “first past the post”, 15 per cent proportionally and 25 per cent as a women's bloc, the SPLM and the opposition parties want percentages of 50-25-25. The NCP has been working to create conditions in Darfur and elsewhere that would maximise the chance of its success in a “first past the post” system. Other issues include whether and how the diaspora will vote, how women will be represented and the number of days for the election. There are also disputes over the make-up of the electoral commission and the independence of the commissioners.

<sup>65</sup> Though the CPA's protocol on power sharing speaks of elections by the end of the third year, the implementation modalities state that they should be held by the end of the fourth year.

Constitution, though the CPA allows for the parties to undertake a “feasibility study” to determine whether the elections can proceed as scheduled. That still leaves the tightest of timetables.

#### **D. NORTH-SOUTH BORDER DEMARCATION**

Demarcation of the North-South border was to be carried out during the pre-interim period, immediately after the CPA was signed in January 2005, but the first reconnaissance survey of the North-South Technical Border Committee took place only in 2007. The lack of demarcation impacts on nearly every other issue, including the national unity government’s capacity to calculate a fair share of oil revenues, since the majority of oilfields lie along the border. The findings of the committee will also determine which parts of Sudan will be able to take part in the 2011 referendum.

The SPLM has blamed the demarcation delays on the NCP for blocking the committee’s funds until the December 2007 agreement. The money, which comes from the Oil Stabilisation Fund, has reportedly now been released, allowing the committee to proceed with its initial work. However, its first report, on the basis of which the committee is to receive the go-ahead from the presidency to start the actual demarcation, was not submitted in February as planned. The question remains whether the demarcation will be done in time for the census in April and what the implications will be if it is not.<sup>66</sup> The demarcation work also risks being hampered by the insecurity around the military redeployment zones, particularly the escalating violence in Abyei.

Because they will have far-reaching impact on wealth and power sharing, the committee’s determinations are expected to be hotly contested, nationally and locally. Sensitisation of local tribes on the actual implications of the demarcation will be key to prevent unnecessary tensions and deflect hostile propaganda. There are no provisions in the CPA for international observers, although the committee has been conferring with experts and consulting maps in several countries, including the UK and Turkey.

Considering the importance of border demarcation to CPA implementation, adding international observers or experts to the process would be welcome. The NCP, however, is unlikely to agree; it has a significant interest in keeping as much oil and other natural resources as possible in the

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<sup>66</sup> Experts working on the census say the figures can be adjusted depending on the eventual border; nevertheless, there is a high chance of conflict during the census if the borders remain undefined. Crisis Group interviews, Juba, January 2008.

North, irrespective of the historical documentation, and it considers it has already “lost” once, on the Abyei Boundary Commission report, due to international experts.

#### **E. TRANSPARENCY IN THE OIL SECTOR<sup>67</sup>**

As part of the December 2007 agreement, the NCP re-committed to “full and transparent” management in the oil sector, as well as to relaunching the National Petroleum Commission. The SPLM, while a member of that body, had felt there was little transparency in the revenue figures it was receiving from the NCP. Because it was blocked from the production and marketing of the oil, it had no way of knowing how much was really sold and at what price, much less what kickbacks the NCP might be receiving. It had to accept on trust the NCP’s accounts, and hence the shares due to the GoSS as its primary source of income. The GoSS received more oil money in October and November 2007, but this may have been related to higher world prices.<sup>68</sup>

The December agreement granted the GoSS a role in management of upstream oil processes, control rooms and terminals, as well as at the centre and on the marketing board. The presidency has agreed to implement these changes, and a recruitment process is underway.<sup>69</sup> Once in effect, the changes should allow the GoSS to confirm production figures, pumping and export numbers and revenue calculations. But despite the repeated commitments, the SPLM has no access as yet to the contracts or oil areas, and the National Petroleum Commission has not met since mid-2007.

### **IV. THE ROLE OF THE INTERNATIONAL COMMUNITY**

Given the NCP’s lack of good faith on CPA implementation, the main challenge is to get it to keep to the new timetables. Though implementation is proceeding on all issues except Abyei, history suggests reason for

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<sup>67</sup> The other issues the SPLM cited when it suspended participation in government have either been resolved or made progress. As discussed above, the cabinet dispute was resolved quickly. The need to revise laws contrary to the CPA and Interim National Constitution has led to the creation of a joint SPLM-NCP body to work over the next six months. Some prominent political prisoners have been released, such as Mubarak al-Fadl and Ali Mahmoud Hassanein, though a senior SPLM official warned that more work needs to be done on this issue. Crisis Group interview, February 2008.

<sup>68</sup> Crisis Group interviews, January 2008.

<sup>69</sup> Crisis Group interview, Khartoum, 20 February 2008.

caution. SPLM strategies to cope with this reality risk becoming increasingly belligerent and counterproductive. It is important, therefore, that the international community take its role as CPA guarantor seriously. Just as the CPA was only the beginning of the peace process, so resolution of the CPA crisis in December 2007 should be seen as only the beginning of a renewed push on implementation.

The international response to that crisis was underwhelming; despite repeated SPLM calls to the U.S., the EU, IGAD and the UN, none of these guarantors engaged forcefully. As has happened in the past, competing international objectives (even competing objectives within the same government) moderated expressions of concern. This was in part for fear of damaging the Darfur peace process or NCP cooperation on deployment there of the hybrid UN/AU mission (UNAMID). Many countries' Sudan policy has been disconnected and incoherent, with the Darfur crisis in one policy box and the CPA in another, thus undermining progress on both.<sup>70</sup>

Both parties place great weight on the U.S. position, but the Bush administration has been consistently inconsistent on Sudan. After a major push for CPA signature, the U.S. all but forgot about implementation, shifting its attention to Darfur, where it worked hard for the failed May 2006 peace agreement. Andrew Natsios, appointed a part-time envoy in late 2006, was pro-active on both Darfur and CPA issues but resigned in late 2007 because of a lack of support from the State Department.<sup>71</sup> President Bush has named a new special envoy, Richard Williamson. It is uncertain what effect the January 2008 murder in Khartoum of U.S. Agency for International Development (USAID) official John Granville may have on Washington's willingness to engage more robustly in Sudan.

Nevertheless, the past year has seen a growing understanding that the CPA is the linchpin for peace throughout Sudan – and that Darfur must be resolved within this context. The need is to build upon this and do four things.

## **1. Renew international attention to CPA implementation**

After the signature of the CPA, international attention shifted to Darfur. With the focus on the Abuja negotiations (and the failed Darfur Peace Agreement), attempts to revitalise peace talks through an AU-UN mediation and

continuous battles to replace the AU mission with a more robust peacekeeping force, there was little energy or attention for CPA implementation. For example, the missed 9 July 2007 deadline for redeployment of SPLA and SAF forces received little notice. Examples of cross-party collaboration, such as the creation of a women's caucus across party lines in the National Assembly, should be highlighted and encouraged. At the height of the CPA crisis, IGAD members tried to convene a conference but failed to get sufficient support.<sup>72</sup> There is still a great need for IGAD to work for implementation. If it is unable, for example because of the competing crisis in Kenya, the IGAD Partners Forum (IPF) – the network of donor countries supporting the IGAD peace process – should do so. The IPF has already discussed CPA implementation, and Italy has offered to host a meeting.

While the NCP insisted it would not participate in any IGAD or IPF meeting during the crisis,<sup>73</sup> an obstructing party should not be allowed to block international action on the challenges facing the peace deal. The purpose of such a meeting should be threefold: to assess CPA implementation independently and identify problem areas; to develop a coordinated strategy, including use of political leverage, in support of implementation; and to achieve consistency and continuity between support for CPA implementation and efforts on Darfur.

## **2. Ensure effective monitoring of implementation**

The Assessment and Evaluation Committee (AEC), a joint international/NCP/SPLM oversight body created in the CPA, has been tasked with monitoring and overseeing CPA implementation but has shown itself impotent in the face of the parties' intransigence, unable to penalise those responsible for obstacles. Its chair, Ambassador Tom Vraalsen stepped down in December 2007, frustrated by the lack of engagement by the parties. A former UK ambassador, Sir Derek Plumbly, was appointed his successor on 12 February 2008. Despite its weaknesses, however, the AEC could perform its mandate better and serve as a constant check on implementation if it could be revitalised. It should begin holding meetings at the envoy level,<sup>74</sup> and feed its findings and recommendations to the Security Council via the UNMIS Special Representative's

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<sup>70</sup> Crisis Group Report, *A Strategy for Comprehensive Peace in Sudan*, op. cit. The absence of an urgent international response, however, may have contributed to the SPLM's decision to return to government even though there had been no Abyei agreement.

<sup>71</sup> Crisis Group interviews, 2007 and January 2008.

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<sup>72</sup> "IGAD ministers call for urgent summit on Sudan", *Xinhua*, 13 April 2007.

<sup>73</sup> A senior official close to IGAD said, however, he believed the NCP had been bluffing and would likely have attended. The NCP still says it will not attend an IGAD conference on this issue. Crisis Group interviews, November 2007 and February 2008.

<sup>74</sup> The current practice is to meet at the level of embassy political officers.

monthly reports to the Secretary-General. The AEC should ideally serve as an information clearinghouse on CPA implementation, with the chairman coordinating international engagement and pressure as needed, to help resolve specific obstacles.

If the AEC is unable to transform itself into a more effective body, key members of the Khartoum diplomatic community should create a shadow AEC, free to report without constraints from the parties. UNMIS is the other international body with a mandate for CPA implementation. It should report more frequently through the Secretary-General to the Security Council – monthly instead of every three months – in order to keep implementation benchmarks on the international radar screen. Finally, there should be a push to provide international observers to accompany the North-South demarcation teams.

### **3. Providing security at flashpoints**

With the SAF's withdrawal from the South, the flashpoints have largely shifted from those identified during the CPA negotiations to the new SAF/SPLA frontier in Abyei and along the North-South border. One of the greatest risks during the CPA crisis was that an incident there would drag the parties back into war. The SAF is reportedly still close to the contested areas. To avoid clashes and ensure the safety of those living there, the 10,000 strong UNMIS force should plan for a demilitarised buffer zone around the border areas, starting with contested areas in Abyei/Southern Kordofan and the oil-producing areas. It is not clear whether it can unilaterally redeploy to these new flashpoints, or if this must be re-negotiated with the parties. If negotiations are deemed to be required, they should be a priority for UNMIS and discussed urgently in the Ceasefire Joint Military Commission, which it chairs.

### **4. Planning for contingencies**

In view of the NCP's record of continuously delaying the electoral timetable, there is a growing possibility that elections will not take place in July 2009 as scheduled. The international community needs to start working with the national unity government to negotiate plans to deal with this, before it becomes a crisis. In the short term, the situation in Darfur almost surely prevents the April 2008 census from being held in that part of the North. There, too, the international community should begin talks with the national unity government and Darfur parties on how to handle the eventuality.

## **V. CONCLUSION**

The CPA crisis did not come out of the blue in late 2007. The warning signs had been present for some time, but it was not until the SPLM forced the issue by suspending its participation in the national unity government that the international community – and the NCP – finally took notice. With the crisis averted at least for now and new commitments and timetables agreed, there has been a collective sigh of relief, nationally, regionally and internationally. Resumed war between the North and the South would have set Sudan back years, if not decades. The recent developments in Abyei also raise the possibility of such a return to war, in the absence of a political solution.

On the whole, the SPLM and the NCP calculate that they still have much to gain through continued partnership, and they can still advance their strategies within the CPA framework. As national elections and the southern referendum come near, however, these calculations may change and again put the CPA, with its promise of the country's democratic transformation, in danger. The most important task now is for the Sudanese political forces to develop a more transparent and inclusive approach to the scheduled elections, in order to advance the likelihood of a peaceful transformation. In addition, the international community must renew its engagement by putting into place concrete measures to protect and advance implementation.

**Nairobi/Brussels, 13 March 2008**