

Southern Sudan Monitor

May 2011



Weapons collection. Peter Muller

Splinters and spoilers – implications for security sector reform programming

The political environment in Southern Sudan is increasingly characterised by fragmentation as the alliances that held the SPLM-led government together through the CPA period begin to shift. The SPLM stands accused of elitist and corrupt governance practices which are isolating key sections of the ethnically diverse society. From allegations of fraudulent practices during the April 2010 election to exclusionary practices in the Constitution making process, the post referendum period has seen the SPLM on the receiving end of severe criticisms from various sectors¹.

The Government of Southern Sudan (GoSS) is being called to provide improved human security; a condition that can only be based on improved service delivery and responsive, inclusive governance. The multifaceted challenges for the SPLM-led government moving towards independence will be to consolidate a government, improve security and deliver services. This cannot be done without favouring some to the detriment of others. How to manage the range of potential splinters and spoilers that challenge the authority of the government and to enforce a monopoly on the legitimate use of force will be central concerns for the government of a sovereign state.

On 11 April 2011, General Peter Gadet Yak announced the formulation of the South Sudan Liberation Army (SSLA). Yak was a Khartoum

<http://www.google.com/hostednews/afp/article/ALeqM5gNRTU11hFbfjXJCGaszruKa1CPyw?doclid=CNG.454b6e07dbf12c41b33a223153bac5455f1>; http://www.sudantribune.com/Nuer-marginalization-in-South_38708; <http://www.southsudan.net/>; <http://www.southsudannewsagency.com/opinion/articles/spla-strike-on-general-tanginyas-force-has-led-to-deadly-carnage-on-civilians-in-kal-daka>; <http://www.sudantribune.com/Defection-of-General-Peter-Gadet.38409>

¹ See for example: <http://af.reuters.com/article/sudanNews/idAFMCD64581720110426?sp=1>; <http://www.southsudannewsagency.com/opinion/articles/spla-strike-on-general-tanginyas-force-has-led-to-deadly-carnage-on-civilians-in-kal-daka>; <http://www.sudantribune.com/Defection-of-General-Peter-Gadet.38409>

Splinters and spoilers – implications for security sector reform programming – *contd*

backed militia leader who was integrated into the SPLA as a major general after the 2006 Juba Declaration. Yak played a leadership role in the South Sudan Unity Movement (SSUM) fighting against the SPLA particularly around the Unity and Upper Nile areas. Following a brutal campaign clearing areas for oil exploration around Bentiu, Yak and many loyal troops defected from the SSUM in 1999².

The SSLA was formed by the Mayom Declaration which calls for a second phase of liberation: liberation from the unjust rule of the SPLM government. The Declaration was also signed by Brig Gen Carlo Kol, Deputy Commander of Joint Integrated Units and Col Bol Gatkouth Kol, a former member of the South Sudan Legislative Assembly and a member of SPLM. The statement strongly condemns the SPLM for poor leadership, corruption, a failing administration and a lack of service delivery. In terms of the security sector, the declaration levels some harsh criticism at the military, police and justice system and points to the uneven impact of the massive reform agenda that has been pursued since 2005. There are allegations of irregular pay for soldiers, lack of promotion and discriminatory practices. The SSLA also accuse the Special Branch of being a source of insecurity. The Special Branch is one of the least talked about parts of the security sector in Southern Sudan receiving very little attention from national and international reform programmes.

Whether truly seeking to create positive change or just fuelling discontent for personal or group interest, the SSLA Mayom declaration brings forward some serious concerns. It also highlights some areas for security sector reform (SSR) programming that international co-operating partners should take note of. Potential issues requiring further attention include:

- Internal financial management systems including human resource systems and payroll administration
- Internal accountability, oversight and complaints mechanisms

- Parliamentary oversight and accountability, especially in terms of budgeting and expenditure management and improved alignment between budgeting, programming and security service delivery
- Governance of the intelligence sector with specific attention to developing policy and legislation to govern the roles, functions and powers of the uniformed and civilian intelligence services
- Assessment of the capacity and accessibility of those that provide justice services

Most importantly perhaps, when considering the implications of the Mayom declaration on the SSR agenda, the SSLA highlights that the focus on training and professionalisation has not been sufficiently complemented with improved governance, accountability, transparency and oversight. Any effort to create sustainable human security through effective security and justice service provision requires a focus on improved governance from the onset.

The resort to violence to advocate for change is a risky strategy; insurgent militias and terrorist organisations seeking political change through violent means become legitimate targets of the security forces. Any legitimate concerns that they may have had with GoSS will become overshadowed by the resort to violence and may be lost in efforts to prevent an unconstitutional change of government. Furthermore, such inter-South tensions will have negative effects on civilian livelihoods and broader efforts at improved security and justice service delivery.

Continued insecurity and the requirement of internal deployment of the SPLA will place demands on the defence transformation process, frustrating efforts to improve communications and logistics, straining an already tenuous command and control structure and further elevating defence priority over law enforcement and public order. Continued deployment of the SPLA also creates increased imperatives for sustaining large defence budgets and does not allow for the allocation of increased spending on socio-economic development. Even legitimate efforts to counter-insurgencies will bring the SPLA back into confrontation with the citizens and communities trying to rebuild social structures devastated by decades of civil war. That does not bode well for improved human security. 🗣️

² For more information see: <http://reliefweb.int/node/398918>; www.smallarmssurveysudan.org/facts-figures-armed-groups-southern-sudan-emerging.php; www.smallarmssurveysudan.org/pdfs/facts-figures/armed-groups/southern-sudan/emerging/HSBA-Armed-Groups-Gadet.pdf

Transitional Constitution of South Sudan – issues and concerns

The genesis of a new constitution for Southern Sudan began with the All Southern Sudanese Political Parties conference that took place from 13-15 October 2010. The conference agreed that in the event of separation Southern Sudan should carry out a constitutional review of the interim constitution of southern Sudan 2005 and draft a permanent constitution for the new independent and sovereign state of South Sudan. The resolutions of this conference renewed hopes of co-operation among people of Southern Sudan. Many people believe that the smooth conduct of the Southern Sudan Referendum is directly attributable to the outcomes of the All Parties conference that promised a broad based, inclusive and participatory transitional government consisting of all political parties.

Nonetheless, these hopes were dampened following the Presidential Decree on 21 January 2011 that established and appointed the Technical Committee to review the 2005 Interim Constitution of Southern Sudan. Almost all of the members of the technical committee were drawn from the SPLM Party; a move that was considered by other political parties as a violation of the October 2010 resolutions that called for an inclusive and participatory constitutional review process. This early setback was overcome when President Kiir, on 17 February 2011, appointed twelve additional members to the technical committee drawn from other political parties and an additional three members from faith based groups. However, only four days later, another seventeen members from the SPLM were appointed by the President to serve on the technical committee. There were further obstacles during the review process as six members from opposition parties withdrew from the process in March accusing the SPLM of using their majority in the committee to impose their interests on the new transitional constitution. The committee members who pulled out represented the following parties: SSDF, SPLM-DC, UDSF, USSP and UDF.

Regardless of withdrawal, the work continued and the final draft has been completed by the committee and submitted to President was tabled for discussion at the Political Parties Leadership Forum on 28 and 29 April 2011. After discussion at this Forum, the draft constitution will proceed to the

Council of Ministers for approval before being further deliberated at the Southern Sudan Legislative Assembly. It needs to be passed into law by 8 July 2011.

There are many technical legal elements within the Interim Constitution that require amendment to be applicable in an independent state. This includes, for example, reference to 'Interim Provisions' such as interim appointments; sections providing for formal relations between national level government in Khartoum and semi-autonomous authority in Juba (for example, that the President of Southern Sudan is also the First Vice President of the Republic of Sudan); references to national institutions at Khartoum level such as the Central Bank of the Republic of Sudan; and the administration of certain sovereign powers such as the power of the President of South Sudan to declare war.

There are some more controversial issues that continue to cause debate. Key in this regard is the length of the transitional period and the term of office for the president and legislature. There is no clarity on the length of the transitional period in the draft transitional constitution. However, Part V (66) and Part VI (100) provide that members of the legislature and the president serve a four year term starting on 9 July 2011. That would imply that the next election would only be required in 2015 before which time a new constitution should be prepared through a broad, consultative process.

Constitution drafting is a means to enhance peace and stability through inclusive and participatory processes. However, it is also a process of negotiation in which vested interests compete for a share of the national pie. In Southern Sudan it has been fraught with difficulties.

Regarding the security sector, the draft transitional constitution provides that the Sudan People's Liberation Army will be renamed the South Sudan Armed Force and "shall be non-partisan, national in character, patriotic, regular, professional, disciplined, productive and subordinate to the civilian authority". Importantly the draft transitional constitution provides that the national armed force does not have any internal law and order mandate unless requested by civilian authority when necessary. However, which civilian authority can request internal deployment is not clarified. The Southern Sudan Police Service is to be renamed the National Police Service and will continue to function at national and state level as regulated by the Police Act.

Transitional Constitution of Sudan – issues and concerns – contd

The draft transitional constitution also provides for the establishment of the National Security Service with two operational organs for Internal and External Security. The key tasks of the National Security Service are for information gathering, analysis and advice. Two important points regarding intelligence governance that flow from the constitutional provisions: (1) the structure, missions, mandate and functions of the Service are to be prescribed by law and (2) the Service falls under the direct supervision of the President. The first point is a necessary step toward creating improved governance of the intelligence sector and will create the foundation for accountability and transparency. The second provision, however, creates the potential for the subversion of the state intelligence apparatus to partisan interest. Furthermore, issues of tasking, command and control when exercised through a close relationship between intelligence client and supplier subvert the potential effectiveness of the intelligence process and will make questionable the utility of intelligence information.



Celebration of national unity when referendum results were announced in Juba. Ali Ngethi

As in other post conflict and transitional societies, constitution drafting processes are a means to enhance peace and stability through inclusive and participatory processes. However, it is also a process of negotiation in which vested interests compete for a share of the national pie. In Southern Sudan it has been fraught with difficulties. One of the outcomes of the Political Parties meeting of late April 2011 was a joint statement by 18 opposition parties of suggested changes to the transitional constitution. These recommendations will be forwarded for further discussion at the Council of Ministers where amendments to the draft transitional constitution will be considered. Some of the recommendations from the opposition parties include:

- Inclusion of clauses to specify power sharing arrangements for the transitional period (65 percent SPLM 35 percent opposition parties)
- Defined transitional period of four years
- Creation of a Ministry of National Security to have executive authority over the intelligence agencies
- Changes to the Abyei clauses to refer to the need to a referendum on self-determination

This is one step on the long path of democratic transition which will be followed by an inclusive and participatory process to draft a new constitution after independence. This broader process is outlined in the transitional constitution and the process of developing a permanent constitution needs to be completed three months before the end of the transitional period – hence the importance of the length of the transitional period. However, previous experiences in for example, Kenya and Zimbabwe, highlight how easily transitional governing arrangements can be manipulated. Allegations and perceptions of a flawed process during the drafting of the transitional constitution also create negative expectations of the next process. Four years can be a long time to wait on the sidelines of political power and actors perceiving themselves to be losers in this process can easily become spoilers of the fragile peace. 🗣️

Disputed lands

The draft transitional constitution provides the following delineation of South Sudan:

“The territory of the Republic of South Sudan comprises all lands and air space that constituted the three former Southern Provinces of Bahr el Ghazal, Equatoria and Upper Nile in their boundaries as they stood on January 1, 1956, and the Abyei Area, the territory of the nine Ngok Dinka chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905 as defined by the Abyei Arbitration Tribunal Award of July 2009.” (Part I)

With increasing insecurity in South Kordofan and military build up in Abyei (as discussed in more detail on pages 5-6), such provisions have evoked a stern response from Khartoum and have raised concerns about the security of civilian populations in the disputed border areas. On Wednesday, 27 April, Reuters reported that Sudan President Omar Hassan al-Bashir said the disputed oil-producing Abyei region will remain part of the north after the south secedes in July (<http://af.reuters.com/article/sudanNews/idAFMCD74640820110427?sp=true>).

A dream deferred – what future for Abyei?

With the end of the CPA period rapidly approaching and the succession of Southern Sudan from the North a *fait accompli*, resolving the uncertain status of Abyei is increasingly important for any future of peaceful coexistence. Throughout the first months of 2011, there have been reports of increased build-up of conventional military forces from both the Sudan Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA). The increased deployment of military hardware and personnel coupled with the potential for militia groups and tribal rivalries point towards the conclusion that more trouble is coming for the impoverished residents of one of the harshest landscapes in the world.

If history is an indication of future behaviour – it does not provide much optimism for Abyei. It was back in 1905 that the British declared Abyei part of northern Sudan: a division of political convenience that has sparked a one hundred year dispute fuelled by identity cleavages, resource availability and manipulation of the political elite. As part of the settlement of the first Sudanese civil war (1954-1972), there was to be a referendum for the residents of Abyei to choose to join the semi-autonomous Southern region or remain aligned with the North. This referendum never took place. Political crises erupted in Khartoum in 1973 with the Muslim Brotherhood and Umma Party trying to stage revolution. Then in 1974, Chevron began prospecting for oil in central Sudan. However, poor development planning and economic mismanagement brought about political crises that culminated in the return to war in the early 1980s.

Abyei was not exempted from these pressures and serves as a particular example of how issues of political economy at a national level can diverge into ethnic-based, identity-driven conflicts at a community level. During the second civil war (1983-2005), Ngok Dinka were allied with the SPLA while the Misseriya aligned with SAF which exacerbated existing tensions between them fuelled by competition over access to scarce land and water resources. Several thousand Ngok Dinka were displaced by the fighting and the Khartoum government settled Misseriya in abandoned Dinka territory.

On 26 May 2004, the Government of Sudan (GoS) and Sudan People's Liberation Movement (SPLM/A) signed the Abyei Protocol that called for establishment of an interim administration, wealth sharing of oil revenue and a referendum to

determine whether Abyei would join the South or remain in the North.

As part of the protocol, the presidency established the nine-member Abyei Boundaries Commission (ABC) to define and demarcate the Abyei area that had been made up of nine Dinka chiefdoms prior to 1905. The ABC produced a report which was rejected by President Omar al Bashir on the grounds that it included information after 1905. In response to the rejection of the report, the GoSS took the issue to the Permanent Court of Arbitration to redefine the Abyei area. On 22 July 2009, the Court ruled that the Abyei area includes all Ngok Dinka permanent settlements. However, the implementation of the ruling was hampered by the oppositions of the SAF 31st Brigade and armed Misseriya on the ground.

In December 2009, the Abyei Referendum Act was passed by the National Assembly and signed by President Bashir. However, the Referendum Commission was not formed because the National Congress Party (NCP) parliamentarians refused to accept any of the nominees appointed by SPLM to head the commission. In July 2010, the NCP attempted to renegotiate the Abyei Protocol, arguing that Misseriya are the real victims of the Abyei dispute who should not only be given voting rights, but also represented in the Abyei administration. As a result a series of meetings involving the United Nations and African Union as mediators were held between September and December 2010, which yielded limited results. Issues of citizenship and contested identities meant that agreement could not be reached as to who should be eligible to vote in the referendum. Tension in Abyei intensified in January 2011 as the deadline for holding the referendum approached. The Abyei referendum did not take place.

Abyei is a bridge between the north and the south, linking the people of Sudan. The territory is defined as the area of the nine Ngok Dinka chiefdoms transferred to Kordofan in 1905. The Misseriya and other nomadic peoples retain their traditional rights to graze cattle and move across the territory of Abyei.

Abyei Protocol, Principles of Agreement on Abyei, May 2004

To restore order after the violence that had erupted in January 2011, the GoS and GoSS met in Kadugli, Southern Kordofan. The Kadugli agreement called for the withdrawal of all unauthorised forces and deployment of more Joint Integrated Units (JIUs) to allow for the free movement of internally displaced persons (IDPs)

A dream deferred – what future for Abyei?

– contd

as well as for the migration of Misseriya nomads to Abyei grazing areas. As mandated by the Kadugli agreement, two additional JIUs battalions were deployed to replace the police units in Abyei. The deployment of the JIUs was a compromise to ensure that neither side had a strategic advantage in terms of uniformed services on the ground.

However, the issue of the migration routes remained unresolved and tensions continued to simmer. The Misseriya were accused of setting up road blocks on the road linking the north and the south and hindering the passage of vehicles carrying IDPs from Khartoum to Abyei. In addition, at least one of the three main routes was blocked by the SPLA this year, according to the UN.

On 22 February, a low level delegation of Misseriya met with the Abyei administration and Ngok chiefs, but declined to discuss migration routes in the absence of their senior tribal leaders. A second meeting to be attended by the Misseriya leadership and South Kordofan administrators was scheduled for 25 February, but was postponed to February 28, but an outbreak of further violence prevented the meeting from taking place.

On 27 and 28 February 2011, the police post at Tordach – a Ngok Dinka village – was attacked by about 100 uniformed armed group of Misseriya resulting in the deaths of 75 police and civilians. This clash was sparked by a dispute over the rights of the Misseriya to graze their cattle in the area. Then on 2-3 March, Maker Abior and Noog villages were attacked by combined forces of SAF, Popular Defence Forces (PDF) and armed Misseriya. The attacks were countered by a small police contingent and Ngok Dinka civilians. Misseriya leaders and northern officials have alleged that the local police in Abyei region are aligned with the GoSS and include an SPLA element. One motive therefore behind the attacks may be to remove the Southern Sudanese Abyei Administration Police from Abyei.


To calm the situation on 4 March, UNMIS facilitated a meeting between the Abyei stakeholders in which the parties agreed to form a committee to implement the Kadugli agreement. Hundreds of Abyei citizens protested outside the UNMIS compound in Abyei town, angered by their lack of interventions during the clashes in February and March. In response, UNMIS intensified patrolling of Abyei region.

There has been significant speculation of military build-up by both SAF and the SPLA in Abyei. On 4 March, the Satellite Sentinel Project showed images that SAF has in recent weeks deployed

two attack helicopters and at least nine battle tanks within the range of Abyei. The group warned that the move constituted a major escalation in the military capacity of SAF in the disputed area. According to the humanitarian organisation, *Médecins Sans Frontières*, tens of thousands of civilians have been displaced by fighting or fled due to fear of further attacks.

On 14 March, UNMIS verified that both sides had reinforced their positions within the Abyei area and were preventing access to affected areas. The Secretary General's Special Advisors on the Prevention of Genocide and the Responsibility to Protect, Francis Deng and Edward Luck, warned that deployment of the SAF and the SPLA to the area could easily trigger ethnic violence and risk the return to full-scale hostilities. On 19 March, the Khartoum authorities deployed an additional 1,500 police to the northern part of Abyei.

The UN and International Crisis Group warned that north and south Sudan armies have displayed aggressive military postures within the range of Abyei. On 13 April, the Abyei administrator, General Mario Kuol confirmed to the Southern Sudan Television that there was a SAF military build up in Abyei. He added that the PDF, numbering 2,000, are also deploying in Abyei. He also confirmed that JIU SAF forces responsible for the 2008 conflicts have been re-deployed to Abyei. This redeployment has outraged Abyei civilians. According to Kuol, an estimated 4,000 IDPs returned to Abyei this year alone. However, following the recent burning of the villages, a number of them have been displaced to Northern Bahr El Gazal and Unity State.

On 14 April, the NCP and SPLM agreed to withdrawal all unauthorised forces from Abyei and formed a Joint Technical Committee with equal numbers from both sides as well as police units and UN representatives to oversee the implementation of Kadugli agreement. However, the combination of political change (in both the north and south), economic necessity (as both sides depend on oil revenue to escape the current dire economic conditions) and community conflict based on ethnic and identity cleavages, create the potential for the dream that has been deferred since 1972 to explode into violent confrontation. The likelihood of military confrontation between SAF and the SPLA in Abyei has increased in the last two months and significant efforts need to be put into addressing this issue. 

A troubled start – oil and conflict: 1954-1994

- 1954** First civil war between north and south starts
- 1956** End of British-Egyptian rule
- 1958** Gen Abboud's military *coup* overthrows civilian government
- 1959** Oil exploration starts
- 1964** Abboud regime toppled by popular uprising. Port Sudan refinery comes on-stream
- 1969** Jaafar Nimeri becomes president
- 1972** Addis Ababa agreement ends civil war
- 1973** Attempted *coup* by Muslim Brotherhood and Umma Party
- 1974** Chevron begins operations in Bentiu, Malakal and Muglad
- 1976** Chevron makes Red Sea gas discovery
- 1976** Another failed *coup* attempt by Muslim Brotherhood and Umma Party
- 1978** Chevron discovers oil near Bentiu and Heglig. International commodity prices plummet and Sudan is plunged into economic crisis. IMF negotiates structural adjustment
- 1980** Division of semi-autonomous South into three states announced; oil producing regions around Bentiu to be transferred to the North
- 1981** Chevron discovers more viable oil fields near Bentiu. Chevron and Sudan government form White Nile Petroleum Company with no representation from southerners
- 1982** Agitation increases against Nimeiri's regime with petrol shortages and soaring food prices
- 1983** John Garang and others mutiny and form the SPLA. Nimeiri introduces *sharia* law
- 1984** SPLA attack oil fields in the south; Chevron suspends operations
- 1985** Nimeiri is overthrown by military after massive popular uprising; SPLA rejects offer of peace from transitional military junta
- 1986** Sadiq-al-Mahdi becomes Prime Minister
- 1989** Fighting between north and south intensifies as SPLA advance into South Kordofan
- 1989** Lt Gen al-Bashir and the National Islamic Front stage military *coup*
- 1990** Chevron quits Sudan and relinquishes all concessions, after spending more than US\$1bn
- 1990** Failed *coup* attempt in Khartoum results in extrajudicial execution of 28 military officers
- 1990** Gulf War breaks out and Sudan backs Iraq
- 1990** First peace talks start between al-Bashir and Garang
- 1991** US\$300 million arms deal between China and Khartoum. Iran writes off US\$150 million debt; provides financing, training and equipment for Khartoum's armed forces
- 1991** Overthrow of Mengistu regime in Ethiopia severely weakens SPLA hold over southern areas
- 1991** Riek Machar and Lam Akol form breakaway Nasir faction splitting the SPLA
- 1991** South Kordofan sealed off by northern forces implementing scorched earth policy
- 1992** UN condemns human rights violations in Sudan
- 1992** Negotiations between north and south collapse
- 1992** Oil production in South Kordofan resumes
- 1992** SPLA attempt to enter Juba but fail resulting in retaliatory massacres on the streets
- 1993** Sudan fails to pay debts to World Bank and Arab Fund for Economic and Social Development
- 1993** US add Sudan to the list of states sponsoring terrorism. Ethiopia, Eritrea, Uganda and Kenya establish a committee to resolve the civil war in Sudan
- 1994** Fighting intensifies in south forcing hundreds of thousands to flee. SPLA continue to lose ground in the south as thousands die in faction fighting
- 1994** Total suspends all activities in Bahr al-Ghazal

(Extracted from

www.sudanupdate.org/REPORTS/Oil/21oc.html)

1994-2010 to be continued in next edition

Copyright © Saferworld, May 2011

SAFERWORLD www.saferworld.org.uk

SUDAN OFFICE Hamza Inn, Juba Town, Juba, Southern Sudan · Phone: +249 (0)924 430042/+249 (0)955 083361

UK OFFICE The Grayston Centre, 28 Charles Square, London N1 6HT · Phone: +44 (0)20 7324 4646 · Fax: +44 (0)20 7324 4647

UK Registered Charity no 1043843 · Company limited by guarantee no 3015948