### The three areas

**A template for regional agreements**

**Jason Matus**

The Comprehensive Peace Agreement (CPA) is a national agreement negotiated by two parties, the Government of Sudan (GoS) and the Sudan People’s Liberation Movement/Army (SPLM/A) ending over 20 years of civil war. The first of its six protocols, the Machakos Protocol of July 2002, provides for a referendum on southern Sudanese secession. Despite the SPLM/A’s stated national agenda, the protocol imposes a north-south solution to a problem of the marginalization of Sudan’s peripheral regions. It uses the contentious 1956 independence boundaries to demarcate the boundary of southern Sudan, excluding from the south three areas heavily represented in the SPLM/A that had been heavily affected by the war. These areas were two of the SPLM/A’s five ‘administered regions’ – the part of the state of Southern Kordofan known as the Nuba Mountains and the state of Southern Blue Nile (now Blue Nile) – and Abyei, an area defined geographically as ethnically as the nine chiefdoms of the Dinka-Ngok who transferred to Kordofan in 1905.

In the months after Machakos, the SPLM/A pushed for – and secured – negotiations that ultimately resulted in separate agreements for Abyei and for the two ‘administered regions.’ At the insistence of the GoS, the talks were initially outside the wider Intergovernmental Authority on Development (IGAD) peace process, led instead by IGAD mediator General Sumbeiywo under Kenyan auspices. In these ‘Karen talks,’ named for the Nairobi suburb where they were held, the GoS insisted that each of the three areas negotiate separately and also insisted that the head of each negotiating team be ‘from’ the area. This approach divided negotiating teams into six groups, three from the SPLM and three from the GoS. These divisions implied that each area had its own isolated conflict – the idea being to prevent any strong challenge to the central government by downplaying the SPLM/A’s status as a national movement.
The process started with a list of the grievances that gave rise to the conflict, and then the parties began listing criteria for identifying solutions to these grievances. The Abyei negotiations stalled as the GoS representative heading the delegation did not meet the agreed criteria for ‘coming from the area.’ If he had been accepted, it would have implied that Misseriyya with seasonal grazing rights were also residents in Abyei. The Nuba Mountains and Southern Blue Nile negotiations proceeded at different paces, but both slowly. This first round of talks ended with minimal progress, and progress was only made later when the three areas were brought into the wider IGAD peace process and considered within the overall negotiations.

The agreements

At the Karen talks the SPLM/A raised a number of core grievances giving rise to conflict: political marginalization; a centralized, minority-dominated and non-democratic government; the nationalization of customary land and its leasing to a few, mostly external investors; discrimination and racism; a lack of religious and cultural freedom; an agenda of Islamization and Arabization including the imposition of shari’a law and an education system designed to promote this agenda; and underdevelopment and inequality. The GoS delegation raised a lack of development and greed as causes of the war. The peace talks attempted to find just and lasting solutions to these issues.

Abyei

In the end, the lack of progress by the two parties in negotiating an Abyei agreement resulted in an internationally-drafted agreement that both parties accepted. The Protocol on the Resolution of the Conflict in Abyei Area (May 2004) is very strong in its protection of the rights of the people of Abyei and its provision of financial support for recovery. It also provides guaranteed grazing in Abyei to the Misseriyya and other nomadic groups. The relatively small population (around 250-300,000) becomes the direct responsibility of the Presidency and is granted citizenship and representation in state legislature on both sides of the border. The agreement also makes provision for shares in the oil revenues along ethnic and administrative lines: the Ngok and the Misseriyya people each receive 2 per cent of oil revenues, as does the state of Southern Kordofan, former Western Kordofan and the region of Bahr al-Ghazal (of which half is for the state of Warap). The three areas, including Abyei, are also expected to receive their own share of national wealth, and manage locally-raised revenues as if they were states, and the area administrators are given ‘special accounts’ for making withdrawals.

The people of Abyei have also been guaranteed a referendum simultaneous with that of southern Sudan. They will vote on whether Abyei should retain its special administrative status in the north or be part of Bahr al-Ghazal (now Warap State) in the south. If the
south votes for independence and Abyei votes to join Warap State (or the region of Bahr al-Ghazal) then it will be part of the autonomous southern government. For many in Abyei the main grievance is that there has never been the fair referendum on whether to join the south or remain in the north to which they feel they are historically entitled – neither after independence in 1956 nor again after the 1972 Addis Ababa Agreement. This is the crux of the Abyei chapter in the CPA. The two most important commissions for ensuring a fair referendum are the Abyei Boundaries Commission (ABC) to determine the boundaries of Abyei and the Abyei Referendum Commission to finalize the criteria for residency. Beyond providing Abyei a guarantee of a referendum and allocating it some resources (which it may have received anyway through the states of Southern Kordofan and Warap), the agreement does little to address other core grievances directly, and the people of Abyei hope instead that these grievances will be addressed by an appointed, and later elected, government for the area.

**Southern Kordofan and Blue Nile States**

At the very end of the talks and in the final hours of negotiations, Southern Kordofan and Southern Blue Nile secured their own protocol. Under extreme pressure internally and from the international community, the SPLM/A representatives in the Nuba Mountains and Southern Blue Nile backed down on many of their key demands, including participation in the southern referendum. These compromises secured gains in other parts of the CPA, mostly for Abyei. The Nuba Mountains became part of a new state of Southern Kordofan based on the previous boundaries of Kordofan’s two states prior to 1974, and Southern Blue Nile became the state of Blue Nile.

The Protocol on the Resolution of the Conflict In Southern Kordofan and Blue Nile States (May 2004) is not the final agreement. The agreement provides some degree of power sharing, security reform and wealth sharing. There is a rotating governorship between the National Congress Party (NCP) and the SPLM; the SPLM comprises 45 per cent and the NCP 55 per cent of the new government; there are guarantees that funds from the central government will be made available; and there are elections. Though the protocol recognizes these areas as a “model for solving the problems throughout the country,” it does little to address directly the core grievances that gave rise to the conflict, instead deferring resolution to a complex political process and a series of commissions. It is not final until it is tested against popular will through popular consultation after the national and local elections.

The remaining mechanisms to deal with core grievances on land reform, sources of legislation and education reform are: the constitution; legislation through the national and state assembly; the state land commission; the census; the Presidential Monitoring Commissions, the States’ Parliamentary Assessment and Evaluation Committee; the elections; and finally the process of popular consultation. The popular consultation is designed to be an indirect consultation through the elected representatives to the state assembly (in the Southern Kordofan State Constitution, the parties are discussing whether to include an actual popular vote to inform the elected representatives), with advice from national-level and state-level CPA monitoring commissions. If the state assembly endorses the status quo, it becomes the final settlement. If they choose to amend the current provisions, they will open negotiations with the Government of National Unity.

**National relevance**

Though the CPA refers to one country with two systems, it is increasingly clear that the one country has seven systems. There are different arrangements for the south, Abyei, the states of Southern Kordofan and Blue Nile, Khartoum State, Darfur, the remaining northern States and most recently for the east. Of the various elements in the CPA, it is the Southern Kordofan and Blue Nile agreement that best reflects a national model for the relationship between centre and states in a federal system.

Southern Kordofan and Blue Nile are models for solving Sudan’s problems because the grievances that the agreement attempts to resolve are shared by marginalized groups throughout Sudan. How the agreement deals with these issues, and most importantly how the parties implement the agreement, is critical to determining if it will be a successful model for the rest of Sudan. The key elements that support national peace are decentralization and devolution of authority, democratization, land reform, freedom of religion and culture, equitable distribution of national wealth (financial reform), security reform, and development. Abyei’s relevance is slightly different, as a bridge between the north and south, linking the people of Sudan and testing the parties’ willingness to implement the CPA, specifically to hold free and fair referenda.

All three areas are of national economic importance. Straddling the border, they are a north-south trade link. They hold important natural resources, including oil, significant rain-fed and irrigated agricultural land, water (including a significant dam on the Blue Nile River),
gold, gum Arabic and other wood products, as well as pasture allowing for the migration of nomads southward. The nationalization of these resources, specifically the removal of customary owners and commercial development by a minority of wealthy investors who are mostly from outside the three areas, is considered a root cause of the war and remains the most likely trigger for renewed conflict.

The three areas are also important for national stability and security. They are dividing line between the northern and SPLA armed forces, which deploy north and south of the 1956 borders respectively. The CPA's security provisions provide for Joint Integrated Units of GoS and SPLA armed forces in the areas. Communities are also very militarized, with many militias and armed groups in the areas or moving through them. Local conflict has the potential to escalate and draw in the two armies.

Implementation

Though Abyei has the strongest agreement, it is the most difficult to implement. At the time of signing the agreement an estimated 85 per cent of Abyei people were outside of Abyei, displaced to the north, south and abroad. National oil interest and the referendum have politicized most local issues. In addition, the Misseriyya whose cattle graze in the area have lost a lot in the talks. They were the overwhelming majority in their own state, Western Kordofan, and now have to share power within an enlarged Southern Kordofan together with the returning Dinka-Ngok. During the war, they had open grazing into Abyei since the population was displaced, and although they still have access (guaranteed under the agreement), they now have to negotiate for it. Because all local groups are militarized, any of them can easily destabilize – or be used to destabilize – the area and undermine implementation as a whole.

As a test, Abyei is currently failing. Displaced people are returning, the UN Mission has been set up and there is an increased UN and NGO presence, but critical elements of implementation have barely progressed. Though the ABC was the first commission to submit its findings, its recommendations remain unimplemented while the Presidency and National Congress Party continue to question the ABC process and to stall implementation. Both parties have a presence on the ground but have not integrated into the area government envisaged by the CPA; neither have the two sides’ militaries or police forces integrated. State funds for reconstruction and local government do not seem to be forthcoming. In the meantime there are a number of reports that Misseriyya are resettling in an area identified by the ABC as Dinka-Ngok, and that the NCP is restricting the movement of UN Mission to prevent them from monitoring north of Abyei town.

In Southern Kordofan and Blue Nile, the SPLM/A must staff three bodies: the civil administration, the SPLM political party structures and the regular army including the JIUs. The NCP must also reform itself, according to the agreement, giving up much of its power in order to integrate into a new local government structure. Yet the SPLM, despite having demanded many of these reforms, is in a very weak position to deliver on them, with only a small cadre of technically-qualified people and controlling only 45 per cent of the government.

In both states implementation is far behind schedule. People are returning, nomads are starting to return to areas previously blocked during the war and investors are coming back. However, integration is minimal and exists only at the top of state and local government hierarchies. Southern Kordofan still does not have a constitution so there is no legal basis for setting up the new government or enacting any of the key reforms. Blue Nile has a constitution but has yet to pass any new laws or set up required commissions. In both states, the NCP remains largely in control through its command of central government. Finances are limited, particularly for government development projects, and there is little transparency on revenues, especially how much money the states should receive from oil revenue. The military and police are far from fully integrated. There are numerous incidents of violence between nomads and farmers. There is still a strong perception that the areas remain divided between NCP and SPLM control.

Conclusion

If the CPA is a national agreement, then the three areas protocols and their implementation are key tests of the parties’ willingness to address the causes of conflict and are models for solving problems across Sudan. Yet the protocols do little to directly address core grievances, hoping that these will be addressed during implementation, especially as part of democratization processes. With implementation so far behind schedule, there is a risk that the protocols will eventually prove unsustainable and undermine national peace.