

## The Responsibility to Protect and Sudan: An Update

### Introduction

On 9 January the people of South Sudan will begin voting in a highly anticipated referendum on independence. As described in the Global Centre for the Responsibility to Protect's policy brief dated 6 October 2010, "*Sudan: Fulfilling the Responsibility to Protect*," there has been concern that mass atrocities would be perpetrated in the period surrounding the referendum. At that point the Global Centre called on the Government of Sudan (GoS), the Government of South Sudan (GoSS), and key international actors to implement a "coordinated and comprehensive strategy to address risks" of violence and atrocities, in keeping with their commitment to the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

The risks of violence and mass atrocities in the run-up to the referendum have long been clear. International engagement has been critical in encouraging the actors to take steps to prevent these risks from materializing. In recent weeks the GoS and the GoSS, have taken positive steps to ameliorate some of these threats. However, clearly identified perils remain. Abyei region is still a potential flash point for violence and atrocities. Southerners living in the North continue to face a risk of possible atrocities in the period after the referendum. In addition to these referendum related threats, the situation in Darfur is growing more critical with each passing day and, as was the case in 2003 and 2004, is not receiving sufficient attention.

Undoubtedly, the holding of a peaceful referendum will be an important accomplishment. Yet international actors cannot take that as a sign that they can reduce their level of engagement in the country. Swift action must be taken to resolve lingering issues, in particular the status of Abyei, and questions about citizenship rights. In the South the months following the referendum will require an investment in conflict and mass atrocity prevention. International actors must also prioritize sustained engagement on Darfur to secure a peaceful solution to the years long crisis and to prevent further loss of life.

### Recent Developments

In recent months a variety of international actors have taken steps to focus attention on South Sudan and put pressure on the GoS and GoSS in an effort to mitigate the risk of violence and atrocities. The African Union High Level Implementation Panel for Sudan and the Inter-Governmental Authority on Development have facilitated discussions between the parties, encouraging them to reach

a peaceful resolution to outstanding disputes. The United Nations (UN) Security Council held several briefings on Sudan and has called on the parties to move forward with implementation of the Comprehensive Peace Agreement (CPA), which ended the civil war in the South. The 'Troika' of guarantors of the CPA, the United States, United Kingdom and Norway, have offered incentives to the GoS for holding the referendum on schedule, and allowing a peaceful division of the country. Such incentives include the removal of sanctions, debt relief, and reentry into international economic institutions such as the World Bank and the International Monetary Fund.

This intense engagement has contributed to several recent positive developments. The voter registration process was completed in a generally peaceful manner with more than three million voters registered. The Carter Center, an American good governance non-governmental organization which has deployed observers to Sudan to monitor the referendum, noted that "the process was generally credible and represents a strong step toward the successful conduct of the referendum." Extensive efforts have also been undertaken to educate the population of the South on voting procedures and potential referendum outcomes.

Additionally, the UN, including the peacekeeping mission deployed in the South, UN Mission in Sudan (UNMIS), has engaged in robust contingency planning to prepare for possible scenarios where civilians may face threats of atrocities. A mission wide protection strategy has been created identifying areas at greatest risk, developing plans to protect populations in these locations and establishing focal points in these areas to facilitate information gathering and communication with local communities.

Recent statements by representatives of the GoS and the GoSS suggest that both sides want to avoid a return to war. One source of risk has been the possibility that the North will resort to violence to prevent the South from seceding. The latest remarks by representatives of the GoS appear to lower this risk as they indicate that they recognize the vote will be for independence, and are willing to accept division. On 31 December Sudanese President Omar Al-Bashir stated that "For the southerners and also the people of the north we promise that we will guarantee and fulfill their safety and the safety of the whole people." He went on to state that "Our acceptance of the final results will not be withdrawn or hesitated about...because the peace is our ultimate goal in our relationships with our southern brothers, even if they choose a path other than unity."

## Current Risks

### *Post-referendum Risks*

Managing expectations in the period immediately following the completion of voting may prove challenging. Tensions can be expected to be high as Southerners anticipate the announcement of results. Any delay in releasing these results, or a contested result, could lead to popular unrest. While the CPA provides for a six month period between the referendum and potential secession, there may be some in the South who expect independence to immediately follow the referendum, which could also provoke unrest. Should the GoS change course and refuse to recognize a vote for independence, or should the parties be unable to reach an agreement on other matters related to CPA implementation, including, most notably, the issue of oil sharing, the likelihood of violent conflict will be high.

The area with the most significant risk of violence and atrocities in the post-referendum period is the border region of Abyei. The CPA called for Abyei to hold its own referendum on 9 January 2011 to determine whether it would join the South or remain in the North with “special administrative status.” All parties have accepted that it is not possible for the Abyei referendum to take place as scheduled on 9 January. The registration process has not been undertaken in Abyei due to disputes about residency requirements, particularly on the question of whether the nomadic Misseriya who graze their cattle in the region would be permitted to participate. Recent statements suggest that the parties may decide not to hold this referendum at all and instead will seek a negotiated solution to the question of Abyei’s status.

Tensions between the Misseriya, traditionally loyal to the GoS, and Ngok Dinka farmers in the region, expected to support secession, are high with both groups heavily armed. These groups have long competed for resources in the area with disputes over access to land and instances of cattle rustling frequently leading to armed clashes between them. Any violence that erupts in Abyei has the potential to spread beyond the region and result in mass atrocities that may be difficult for the parties or UNMIS to halt.

A second area of serious concern is the fate of Southerners living in the North, and Northerners living in the South. No final provisions related to citizenship for these populations have been agreed upon. Members of the GoS have issued conflicting statements with some assuring Southerners of their right to remain in the North, and others stating that if the vote is for secession Southerners will lose their citizenship. There are related concerns that Southerners who remain in the North after a vote for separation, could face persecution or be forcibly displaced by the communities in which they live. Recent statements by President Bashir that, if the South secedes, “there will be no question of cultural or ethnic diversity. Sharia will be the only source of the constitution, and Arabic the only official

language,” have added to such concerns. Similar worries exist with respect to Northerners living in the South.

Tens of thousands of South Sudanese living in the North have already begun returning to the South. Most are doing so voluntarily and with support and assistance from the GoSS based on a desire to vote in the referendum or to become part of an expected newly independent South Sudan. These large numbers of people in transit are at particular risk of attack during their journey. Already there have been reports of armed Misseriya militias holding buses of returning Southerners for ransom. Abyei has also seen an influx of returnees from the North, adding to conflicts over resources in that already tense region.

There are currently tens of thousands of refugees from Darfur in South Sudan and it appears that several Darfuri rebel groups are now based in the South. The GoS has stated that if the GoSS continues to harbor or support these groups that will be considered grounds for an attack by the Sudanese Armed Forces (SAF) on the South. Any such attack on the South has the possibility to ignite a civil war between the North and the South. South Sudanese President Salva Kiir Mayardit has recently ordered the expulsion of Darfuri rebel groups saying that “no opposition in the north shall take Juba as a base.” However, if this order is not carried out, or if such groups are allowed to reenter the South, this threat will remain.

Over the course of the next year, the risk of violence in the South will remain a significant concern. Expectations are high regarding an improvement in living conditions in a newly independent South and the GoSS’s inability to meet such expectations may provoke popular unrest. Currently Southern actors have been largely unified behind the common goal of a successful referendum and peaceful division. There is no guarantee that such unity will hold after independence is achieved. The possibility for fractures among influential Southern political leaders, many of whom draw support from armed elements, poses a threat of violence. Low-level inter-ethnic conflict, primarily over competition for resources, is already taking place in several communities in the South. There is a potential risk of escalation in such conflict, potentially resulting in the commission of atrocities.

### *Darfur*

In the paper “*Unwilling and Unable: The Failed Response to the Atrocities in Darfur*” the Global Centre noted that one of the key failings of international engagement in Sudan in 2003 and 2004 was its inability to focus on more than one situation at a time. The emerging crisis in Darfur was overlooked while attention was dedicated to securing the success of the North/South peace process. It appears that the lessons of history have not been heeded as the worthy focus on a peaceful referendum is leading to a failure to pay the necessary attention to the situation in

Darfur. This is of particular concern because the futures of the South and of Darfur are inextricably linked.

There continues to be a significant risk of mass atrocities in Darfur with recent flare-ups in violence suggesting that the threat to civilians may be increasing. In early December hostilities resumed between the SAF and the Sudanese Liberation Army (SLA)'s Minni Minnawi faction (SLA/MM), a rebel armed group which had signed the Darfur Peace Agreement with the GoS in 2006. Several clashes occurred in the area of Khor Abeche, South Darfur with reports suggesting that the SAF burned a village and indiscriminately attacked civilians. The renewed fighting led to the displacement of over 10,000 people. As with past clashes, government authorities and rebel groups have prevented UN peacekeepers and humanitarian aid agencies from reaching civilians in the area where the fighting took place, making it difficult to assess the impact on the civilian population. The SLA/MM has also reportedly entered into an alliance with the Justice and Equality Movement (JEM), the largest Darfuri rebel group, and the two groups together engaged in clashes with the SAF in North Darfur. This is a worrisome sign as the GoS has historically responded to threats from rebel movements by targeting civilians.

On 30 December the GoS officially withdrew from peace talks taking place in Doha, Qatar with Darfuri rebel groups. While spokespeople for the GoS have stated that they continue to be open to negotiations with those who want peace in Darfur, they have also indicated that they will seek to defeat militarily those groups that fail to put down arms. Statements by the GoS that, should the South vote for division, Sudan will no longer respect ethnic diversity, may have implications for the conflict in Darfur as it suggests an increased risk of atrocities against ethnic minorities.

### **Upholding the Responsibility to Protect**

The GoS and GoSS bear the primary responsibility to protect their populations from mass atrocities. Pressure must be maintained on both to urge them to uphold this responsibility and take action to prevent and halt atrocities. This action must include reaching a peaceful settlement on the future of Abyei, finalizing oil sharing agreements, and committing unequivocally to protect the citizenship rights of all Sudanese, whether living in the North or the South.

While the recent positive developments make it appear less likely that a large-scale conflict between the North and the South will break out, both the GoS and the GoSS must remain vigilant to prevent potential spoilers from provoking a conflict that could turn catastrophic. Similarly both governments must refrain from incitement and encourage their populations to accept the referendum results and respect the process. Should any incidents or threats of violence occur, unified signals from both the GoS

and the GoSS should be sent so as to encourage the peaceful resolution of disputes. The GoSS must continue to engage in education about what the CPA provides for, in particular that independence will occur only six months after the referendum, in order to manage expectations.

It is critical that international engagement does not wane once the referendum itself is completed as risks will remain. One of the key elements of this engagement will be continued vigilance and early intervention to prevent minor, localized clashes from escalating into large scale conflict. In order to do this successfully, UNMIS's intelligence gathering capacity must be strengthened and communications mechanisms improved. Additionally, UNMIS troops and civilian personnel, as well as others who can serve as local mediators, should be present in areas known to be potential flashpoints, including Abyei, South Kordofan, Blue Nile, Jonglei, and Unity state, to promptly resolve any conflicts that may arise.

The GoSS will need significant international support to maintain security. The GoSS's capacity to protect post independence will likely be limited and, as this is likely to be a period of significant risk, the necessary international assistance must be provided. This should include, when UNMIS's mandate comes up for renewal in April, the configuration of a new mandate for a peacekeeping force that is tailored to the civilian protection needs of a newly independent South Sudan. International actors should also encourage the GoSS to honor its commitment to refrain from harboring Darfuri rebel groups in order to avoid provoking conflict.

Finally, it is crucial that the UN and key member states, including the United States, the United Kingdom, and Norway, as well as major donors to the GoS not turn a blind eye to crimes in Darfur in their efforts to ensure a peaceful division of the country.

### **Conclusion**

The efforts of the GoS and the GoSS to reach a peaceful resolution to their disputes, combined with sustained and focused international engagement, have created the possibility that Sudan can be a positive example of the type of action that can be taken in keeping with the responsibility to protect. However to ensure that this is the case all of the parties must continue to make the prevention of atrocities and the protection of civilians a priority. The United Nations, the African Union and member states have done a great deal to prevent atrocities in Sudan but they must remain engaged and should encourage the continued efforts of the parties in keeping with the responsibility to protect. All parties must also be prepared to take measures to protect civilians, should efforts to prevent violence fail.