

PART I

Opinions on Self-Determination

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Some Questions Regarding the Independence of South Sudan

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Introduction

Whatever the point of view, it would be difficult to deny that the referendum on South Sudan – unity or independence – was a historic moment. The right for self-determination marks the founding of a new political order. Nationalists may try to convince us that the outcome of the referendum, independence, is the natural destiny of the people of South Sudan. But there is nothing natural about any political outcome. Let us ask one question to begin with: who is the ‘self’ in what we know as self-determination? In 1956, when Sudan became independent, that self was the whole people of Sudan. Today, in 2011, when South Sudan will become independent, that ‘self’ is the people of South Sudan. That self, in both cases, is a political self. It is a historical self, not a metaphysical one as nationalists are prone to think. When nationalists write a history, they give the past a present existence. In doing so, they tend to make the present eternal. As the present changes, so does the past. This is why we are always rewriting the past. The outcome of self-determination in South Sudan is bound to have its strong impact on the South and the North, on the region of the Horn and the whole of African continent. The questions of identity, statehood and Africanism will be open afresh in a number of countries around the continent. The answer may not be peaceful or smooth.

The Pertinent Questions of Identity and Liberation

To return to the referendum: the referendum is a moment of self-determination. Not every people has this opportunity; not even every generation gets the opportunity. If the opportunity comes, it is once in several generations; and it comes at a great price. That price is paid in blood and in political violence. It is fitting that we begin by recalling that many have died to make possible this moment of self-determination. Let us begin by acknowledging this sacrifice, which signifies this historical moment. I do not intend this talk to be a celebration. My objective is more analytical. Rather than tread on firm ground, I intend to pose a set of questions not so that we may answer them here and now, but as guidelines to how we may think of South Sudan in the days and months and years ahead. I will begin with four questions:

One: How should those committed to Pan-African unity understand the emergence of a new state, an independent South Sudan? What does it teach us about the political process of creating unity?

Two: As we write the history of self-determination, how will we write the history of relations between the North and the South, as the history of one people colonising another or as a history with different, even contradictory, possibilities?

Three: How did the SPLM, historically a champion of a united New Sudan, come to demand an independent state?

Four: Now that the SPLM's political project has changed, to create a new state, this raises another question: will the South establish a new political order? Or will it reproduce a version of the old political order of the old Sudan? Will independence lead to peace or will peace be just an interlude awaiting a more appropriate antidote to ongoing political violence in Sudan?

African Unity

Like the self, unity too does not develop in linear fashion, in a straight line, from lower to higher levels, as if it were unfolding according to a formula. Political unity is the outcome of political struggles, not of utopian blueprints. Anyone interested in creating unity must recognize the importance of politics and persuasion, and thus the inevitability of a non-linear complicated process.

We often say that imperialism divided the African continent. I suggest we rethink this platitude. Historically, empires have united peoples by force. France created two great political units in Africa: French Equatorial Africa

and French West Africa. Britain created two great federations: the Central African Federation and the East African Federation, and it created Sudan. These great political units split up, but that division was not at the moment of colonialism, rather it occurred at the moment of independence. This was for one reason; the people in question saw these political arrangements as shackles, and struggled to break free of them. Unity can be created by different, even contradictory, means. It can be created by force, and it can be created by choice. This is why we need to distinguish between different kinds of unities: unity through bondage and unity through freedom. This is why a democratic position on African unity is not necessarily incompatible with a democratic right to separation, just as the free right to union in marriage is not incompatible with the free right to divorce. The Organization of African Unity (OAU) had two relevant provisions in its Charter: the sovereignty of all states, and the right of all peoples to self-determination. Most observers saw these as contradictory. I suggest we revise this judgement in retrospect.

We need to rethink the relation between sovereignty and self-determination. Sovereignty is the relation of the state to other states, to external powers, whereas self-determination is an internal relation of the state to its people. In a democratic context, self-determination should be seen as the pre-requisite to sovereignty. There are, in the post-colonial history of Africa, two great examples of self-determination, of the creation of a new state from a previously independent African state: Eritrea was the first, South Sudan is the second. No state in history has agreed willingly to secession of a part of its land. Secession is always forced in one way or another on a state. This is why we need to ask a question in both cases: how was secession possible? Eritrean self-determination was the outcome of two important developments, internal and external. Internally, it was the outcome of a struggle lasting nearly four decades, culminating in a military victory over the Mengistu regime, the Derg. Externally, the relevant factor was the end of the Cold War and the collapse of the Soviet Union block. The referendum that followed was notable for one reason. In spite of the close relation between Eritrean and Ethiopian armed movements, the EPLF and the EPRDF, and their joint victory over the Ethiopian empire state, the Eritrean people voted overwhelmingly to establish a separate and independent state. In South Sudan, self-determination is the result of a different combination of developments. Internally, there was no military victory; instead, there was a military stalemate between the North and the South. Thus the question: How did South Sudan win its political objective, independence, in the absence of a military victory? Until now, this remains an unanswered question.

My answer is provisional. In the case of South Sudan, the external factor was more decisive. That external factor was 9/11th and, following it, US invasion of Afghanistan and Iraq. In my view, it is only this factor, the real grip of post-9/11th fear, the fear that it will be the next target of US aggression that explains the agreement of the government in the North to include a provision for a referendum in the South in the CPA. The result of the referendum could not have been in doubt. It would have been clear to anyone with a historical understanding of the issues involved, and of the experience of the process leading to Eritrean independence, that the referendum would lead to an overwhelming popular vote for an independent state in the South. Why then did the power in the North agree to a referendum? My answer is: the agreement to hold a referendum deferred a head-on confrontation with US power.

The Meaning of Independence

Is independence the end of a colonial relationship? This is indeed how one tendency in South Sudan thinks of independence. Just as some who called for Eritrean independence spoke of Ethiopia as a colonial master. The analogy is misleading for at least one reason. Whereas the colonial power left the region, North and South will always be neighbours. You can leave your marriage partner, but you cannot leave your neighbour. Neighbours have a history, and that history overlaps geographical boundaries. Though North and South have distinct geographies, they have overlapping histories. I would like to highlight key developments in that history. The first development was that of migrations, both voluntary and forced. Let us begin with voluntary migrations. Here is one interesting example. In the period before western colonialism, even before the regional slave trade, the Shilluk migrated from the South. From amongst the Shilluk rose the royal house of the Funj which established the famous Muslim Sultanate of Sinnar. As it expanded, the Sultanate raided the South for slaves, mainly for slave soldiers. For reasons that need to be explored further, colonial historians have termed these slave raids the Arab slave trade. The Sultanate of the Funj was the first Muslim state in the history of Sudan. It brought to an end a thousand-year history of Christian states in the North. Sinnar demolished Christian states in the North and inaugurated the political history of Islam in Sudan. Given the conventional understanding that equates Islam with the North and Christianity with the South, I would like us to remember that political powers in the North, in Nubia and Beja, were Christian, and that the royal family of the first Muslim state in Sudan

came from the South, not the North. In contrast, Islam came to the North in the form of refugees and merchants, not royals or soldiers. The migrations that we know of better were forced migrations, slavery. The South plundered for slaves from the seventeenth century onwards with the formation of the Sultanate of the Funj along the Nile and the Sultanate of Darfur in the west. But the slave trade became intense only in late eighteenth century when the Caribbean plantation economy was transplanted to Indian Ocean islands. The rise of a plantation slave economy had a number of consequences. Prior to it, the demand for slaves came mainly from the state; it was a demand for slave soldiers. As slave plantations were developed in the Indian Ocean islands, in Reunion and Mauritius and other places, the demand shifted from the state to the market. The scale of the demand also increased dramatically. Nonetheless, most of those enslaved in the South stayed in Darfur and Sinnar as slave soldiers. Most of those in Darfur became Fur. Most of those in Sinnar became Arab. They were culturally assimilated, mostly by consent but the kind of consent that is manufactured through relations of force. For a parallel, think of how African slaves in North America became English-speaking westerners, thereby taking on the cultural identity of their masters.

This little bit of history should disturb our simple moral world in a second way; some of the Arabs in the North are descendants of slaves from the South. The second great historical development that has shaped relations between North and South in Sudan is that of anti-colonial nationalism. The event that marks the rise of anti-colonial nationalism is the *Mahdiyya*, the great Sudanese revolt against British-Ottoman rule, known as the *Turkiyya*. Led by Mohamed Abdulla, the Mahdi, this late nineteenth century movement was, after the 1857 Indian Uprising, the greatest revolt to shake the British empire. With its firm social base in Darfur and Kordofan, the *Mahdiyya* spread first to the rest of northern Sudan, and then to the Dinka of Abyei. The Dinka said the Spirit of Deng had caught the Mahdi. Modern Sudanese nationalism begins in the 1920s with what has come to be known as the White Flag revolt. It was spearheaded by southern officers in the colonial army, and marks the turning point in colonial policy in Sudan, when British power decided to quarantine the South from the North. This is how North and South came to be artificially separated in the colonial period, with permission required to cross boundaries. This kind of separation is, however, not unusual in the history of colonialism, Karamoja too was a quarantined district in colonial Uganda. The third point is key: an even worse fate met the people of South Sudan after independence. A state-enforced national project unfolded in Sudan, at first as enforced Arabisation, later as enforced Islamisation. This, rather than the colonial period, is the real context of the armed liberation struggle in

the South – for the fact is that it did not take long for both the political class and the popular classes in the South to realize that the independence of Sudan had worsened their political and social situation, rather than improved it.

SPLA: From New Sudan to Independence

The SPLA's political programme was not an independent South; it was a liberated Sudan. SPLA did not call for the creation of a new state, but for the reform of the existing state. The demand for a New Sudan was the basis of a political alliance between SPLA and the northern political opposition in Khartoum. It was the basis on which SPLA expanded the struggle from the South to border areas. When Garang signed the CPA and returned to Khartoum, over a million turned out to receive him. They represented the entire diversity of Sudan, from North to South, and from East to West. They included speakers of Arabic and of other Sudanese languages. Many drew comparisons with the return of Mugabe to Harare. Garang's return was a shock across the political spectrum, especially to the ruling class in the North.

The point of this historical survey of relations between North and South is to underline one single fact: this is not a one-dimensional history of northern oppression of the South. True, northern domination is the main story, especially after independence. But there was a subsidiary story, the story of joint North-South struggle against that domination. This has been more easily identified as a struggle against the military rulers: Aboud, Nimeiry and al-Bashir who ruled the country for about 40 years. If the SPLM had participated in the presidential elections of 2010, it would likely have won, whether led by Garang, Salva Kir or Yassir Arman. The irony is this: precisely when the SPLM was on the verge of realizing its historic goal, power in the whole of Sudan, it gave up the goal and called for an independent South. Why? Part of the answer lies in the orientation of the political leadership, especially after the death of Garang. SPLM was a movement with a strong leader; the weaker the organization, the more difference does the death of one individual make. The history of liberation movements in this region testifies to this fact. It should also remind us that it has not been unusual for strong leaders to be eliminated towards the close of an armed struggle. Remember ZANU and the killing of Tongogara on the eve of victory; the ANC and the assassination of Chris Hani, also on the eve of victory; and SPLM and the death of Garang soon after return to Khartoum. It is worth comparing SPLM with ANC. Both were successful in undermining the attempt of ruling regimes to turn the struggle into a racial or religious contest. The ANC succeeded in recruiting important individuals from the white population, such

as Joe Slovo and Ronnie Kasrils. Similarly, SPLM included key cadres from the Arab population like Mansour Khalid, Yassir Arman and al-Wathiq Kemier. The difference between them is also important, whereas the line that called for unity, for a non-racial South Africa, won in the ANC, the line that called for a New Sudan was defeated in the SPLM.

In both cases, the line representing unity and that representing separation were locked in an on-going contest throughout the history of the struggle. This was indeed the difference between the ANC and the PAC in South Africa. In the case of South Sudan, the two lines were represented by SPLM and Anyanya II, the first calling for a New Sudan, the latter for an independent South Sudan. SPLM was founded as a nationalist project, an alternative to other kinds of nationalisms, to Arabism, to Islamism, but also to a separate South Sudan nationalism. The SPLM was a project to reform the state, not to create a new state. Garang's speech at Koka Dam was the most explicit statement of why the future of the South and the North lay together, why political salvation lay not in the formation of a new state but in the reform of the existing state.

Today, the line calling for independence has emerged triumphant. How did we get to this point? I have suggested that part of the answer lies in the nature of political leadership. Another part of the answer lies in on-going political developments. The key development was the experience of power-sharing. The first power-sharing agreement in Sudan was forged in 1972, as a result of the Addis Ababa Agreement. It lasted ten years; but it collapsed when it was no longer convenient for the military regime in the North. It also collapsed because the Agreement had little popular support in the North; the northern opposition was completely excluded. Why? Because the 1972 Agreement reformed the state in the South but not in the North. The CPA was built on the lessons of 1972. The key lesson was that power-sharing had been too narrow. As a result, the CPA called for a broader sharing, ranging from political power to wealth to military arrangements. Still, it remained sharing of power between elites, between two ruling groups, NCP and SPLM. It left out the opposition in both the North and the South. It was power-sharing without democratisation!

Democratisation and Violence

What would democratisation mean in the present context? Is there a link between democratisation and violence? If so, what is that link? I want to begin with two observations, one on political order, and the other on political violence. The first has to do with the link between organisation of the state and maintenance of civil peace in a post-civil war situation.

Think of Uganda in 1986. We had just come out of a civil war. The terrain was marked by multiple armed militias, the best known being UFM and FEDEMU. The Ugandan solution to this problem was known as the broad base. It was an invitation to rival militias to join the new political order, but on two conditions: first, whether monarchist or militarist, you can keep your political objectives provided you give up your arms; second, you can have a share in political power, a governmental position, provided you give up control over your militia. South Sudan, too, is attempting to create a broad base. But in South Sudan, different members of the broad base have kept not only their arms but also their command over their respective militias. Every important political leader in the SPLM has his own militia, so much so that one has to ask: what happens if a leader loses his position within the SPLM? Or loses an election? The obvious answer is, that commander leaves with his militia. Take the example of General George Athor who went into rebellion after losing last April's election to be governor of Jonglei state. He immediately led his militia into rebellion, attacking Malakal in the oil-producing state of Upper Nile. It is a sign of the times. General Athor had contested the election as an independent candidate, because the SPLM did not select him as a candidate. But one is tempted to ask: what is to prevent a general who contests as SPLM and loses the election from withdrawing with his militia? Most discussion on the question of violence in South Sudan today focuses on the spectre of north-south violence. There is hardly any discussion on violence within the South. Even when internal violence in the South is discussed, it is seen as a consequence of north-south tensions.

I suggest that we need to look at both internal and external violence, violence within state boundaries and violence between states. Let us begin with some general observations. Political violence in African states is not between states, but within states. The exception is where one state was created from within the womb of another, like Eritrea out of Ethiopia, or Pakistan out of India, or where one political class was nurtured in the womb of another, like the relationship between EPLF and TPLF, the Eritrean and Ethiopian armed movements, or the RPA in Rwanda and the NRA in Uganda. The first kind of violence abounds in post-colonial Africa: the Rift Valley in Kenya, Darfur, Ivory Coast, Eastern Congo. It is common to refer to all types of internal violence as 'ethnic violence'. What is the common factor? All these cases have one thing in common. All have reformed the central state by introducing elections and a multi-party system. But elections seem to lead to violence rather than stability. Why? For a clue, I suggest we look at another similarity between these cases of internal violence. None have managed to reform the

local state, the local authority or the District Authority that the British used to call a Native Authority. As a form of power, the Native Authority is of colonial origin. Colonialism spread a fiction, that Africans have a herd mentality and that they tend to stay in one place, so Africans have always lived in tribal homelands. This was their justification for why every colony was administered as a patchwork of tribal homelands. In actual fact, colonial administrations created homelands and Native Authorities. My research suggests that colonialism began with a programme of ethnic cleansing. Take the case of Buganda where all the Catholics were moved from the centre to Masaka, and Mengo was considered a Protestant homeland. Administrative counties were designated as Protestant or Catholic or, in a few cases, Muslim. The tribe or religion of the chief designated the nature of the homeland he administered. The ethnic cleansing in Buganda was religious, it was tribal elsewhere. The Native Authority made an administrative distinction between those who were born or lived in the administrative area and those who were descended from its so-called original inhabitants. The distinction, in today's political language, was between natives and *Bafuruki*. The distinction systematically privileged natives over all others. The colonial tribe is not the same as a pre-colonial ethnic group. The pre-colonial ethnic group was not an administrative but a cultural group. You could become a Muganda or a Munyankore or a Langi or a Dinka in the pre-colonial period. But you could not change your tribe officially in the colonial administration. Colonialism transformed a tribe from a cultural identity to an administrative identity that claimed to be based on descent, not just on culture. It became a blood identity. Tribe became a subset of race. Wherever the colonial notion of Native Authority has remained, the authorities define the population on the basis of descent, not residence.

Colonialism was based on two sets of discriminations: one based on race, the other on tribe. Race divided natives from non-natives in urban areas. Tribe divided natives from *Bafuruki* in the rural areas, inside each tribal homeland. The difference was that whereas natives in urban areas were discriminated against racially, natives in the tribal homelands were privileged. This administrative structure inevitably generated inter-tribal conflicts. To begin with, every administrative area was multi-ethnic. Yet, in every multi-ethnic area, official administration discriminated against ethnic minorities, especially when it came to access to land, and the appointment of chiefs, that is, participation in local governance. As the market system developed, more and more people migrated, either in search of jobs or land, and every administrative area became more and more multi-ethnic. In a situation where the population was multi-ethnic and power mono-ethnic, the result was that

more and more people were disenfranchised as not being native of the area, even if they were born there. Ethnic conflict was the inevitable outcome. Africa is littered with examples of this kind of conflict. It is the dynamic that drives on-going civil wars around the continent: Darfur, Nigeria since the post-civil war constitution, eastern Congo, Ivory Coast, the Rift Valley in Kenya. Will South Sudan be an exception? Will South Sudan create a new kind of state or will it reproduce a reformed colonial state? To have some idea, we can look at the period before the CPA was signed in 2005. At the time, there were liberated areas. Since CPA was signed in 2005, the whole of southern Sudan became a liberated area. The fact is that South Sudan became independent six years ago, in 2005.

Make a comparison between liberated SPLA-held areas in Sudan with Sudan government-held areas, also in southern Sudan before 2005. Early returns are not encouraging. Structures of power in both areas are the same. Both areas are ruled by administrative chiefs that implement customary law as defined in the colonial period, as a law that systematically privileges natives over Bafuruki, men over women and old over young. From this point of view, there is no difference between how local power is organized in the North and in the South. Because the local power discriminates actively and legally between different kinds of citizens of southern Sudan, it is bound to generate tensions and conflict over time. The second type of violence, that between states, is specific to cases like Ethiopia and Eritrea, Uganda and Rwanda. Will South and North Sudan be an exception? For a start, we need to identify the sources of North-South tensions. First, there are the border-states which lie within the North or the South but have populations that historically came from both. This is the case in Blue Nile, Nuba Mountains, and southern Kordofan. The border-states were politically the most receptive to Garang's call for a New Sudan. The border-states also felt betrayed by the decision to create an independent South Sudan. At the same time, the political class in the border-states is exposed to retaliation from the northern political elite, one reason why it turned to SPLA for protection.

The second source of tension is the population of IDPs, the population of refugees from the south who lived in the north. How many of them still continue to live in the north? We do not know, but the count ranges from hundreds of thousands upwards. Are they citizens of where they live, Sudan, or of the new state from which they have historically moved, South Sudan? Like Eritreans in Ethiopia, they will be the most likely victims of a failure to think through the citizenship question. The third source of tension is in Abyei,

where the Misseriya of Darfur and the Ngok Dinka have shared livelihoods and political struggles for over a thousand years. Historically, African societies had no fixed borders; the borders were porous, flexible and mobile. But the new borders are fixed and hard; you either belong or you do not. You cannot belong to both sides of the border. Will the new political arrangement with fixed borders pit the Misseriya and the Ngok Dinka against one another? Should the populations of border regions, pastoralists who criss-cross the North-South border annually in search of water in the dry season, the IDPs who have settled in their new homes, have dual citizenship?

In sum, then, there are two major sources of political violence after independence. Possible violence between North and South has three likely sources: border populations, IDPs, and peasants and pastoralists with shared livelihoods. The second possible source of violence is within the South. It arises from the persistence of the Native Authority as the form of local power that turns cultural difference into a source of political and legal discrimination. One solution for the first problem is dual nationality for border and migrant populations in the near future, which could possibly lead to a confederation in the distant future.

The solution for the second problem is to reform the Native Authority. If South Sudan is organized as a federation, how will citizenship be defined in each state in the federation, as ethnic or territorial? A territorial federation gives equal rights to all citizens who live within a state, whereas an ethnic federation distinguishes legally and politically between different kinds of residents, depending on their ethnic origin. The basic question that faces South Sudan is not very different from the one that faces most African countries. Will South Sudan learn from the African experience – on-going civil war and ethnic conflict – and rethink political citizenship and the political state in order to create a new political order? The future of South Sudan and its people rides on the answer to this basic question. The risk of violence and conflict in South Sudan may not be less than the long civil war experience between South and North.

