



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Weekly Review

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Embattled for Legitimacy: GoSS and the 2015 Elections

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Restoring peace in South Sudan remains tenuous, as the rival groups, the rebels and government, are increasingly becoming less committed to a peaceful resolution of the violence. Attempts by regional and international bodies to stamp out South Sudan's raging violence during the last year have proved futile. Given a platform to table their grievances, negotiate, and resolve the crisis, the warring parties ubiquitously offer a theoretical catechism of peace but actively resort to undertakings that demonstrate a pursuit of military victory. A strategic remedial response to the conflict that has been identified thus far is the institution of a comprehensive transitional government, estimated to last 3 years. The proposed transitional government, to be established in reflection of proximal explanations of the violence, encompasses radical political and institutional reforms, both short- and long-term.

The emergence of the new war and the need for a transitional government, which the two parties in conflict have ideally agreed to, readily postpone a number of political programs previously invested upon by the current transitional constitution. One such program is the national elections, initially scheduled for 2015. Ideally, the creation of the transitional government engenders peace and permits the facilitation of credible political reforms in the country, with consequently conducting comprehensive elections as a fundamental objective.

Although peace restoration programming progresses in Ethiopia, the result of which would purportedly help inform essential reforms in the country, the Government of South Sudan (GoSS), concerned with meeting the constitutional deadline for general elections, has embarked upon preparations for the 2015 national vote¹. To this effect, the Council of Ministers recently met and approved US\$517M for the June/July 2015 electoral exercise. The preparations surface despite the uncertainty of attaining timely peace due to the underlying lack of cooperation between the warring parities and

¹On December 26, 2014, VOA reported that South Sudan has approved \$517M for 2015 Vote. "The government of South Sudan has approved a \$517-million budget for general elections, which are due to be held in July next year, but a leading opposition figure says holding the vote would be unconstitutional and called for it to be delayed." Source: <http://www.voanews.com/a/south-sudan-approves-budget-for-2015-elections/2573818.html>

ultimately undermine the transformative role for which the proposed transitional government has been earmarked.

This weekly review analyzes the recent GoSS' announcement to conduct general elections in 2015. We primarily confer upon legality, feasibility, and political implications that underlie this exercise. Given time constraints and ongoing instability, we suggest that national elections are not merited for at least 3 years.

Legality

Notwithstanding its virtual political connotations, the South Sudanese government's call for 2015 elections perhaps equally rests with the constitutional mandate that requires general elections every 4 years. By July 9, 2015, this time will have lapsed, with the current elected officials subsequently faced with the challenge of legitimacy moving forward. Currently a prime target of the opposition, the South Sudanese President confronts far-reaching political consequences if his term were to expire absent of elections or generally accepted constitutional amendments. This compounds the opposition's discourse that delegitimizes the President by allegedly faulting him for instigating the conflict and aiding the national army in carrying out an ethnic massacre. The government's plea is arguably sound, constitutionally, but remains readily outweighed by conflict circumstances. Besides, the same constitution requires national population and housing census for legally binding elections to be conducted.

That the government selectively focuses on elections as stipulated in the constitution but not other items of significance certainly raises concerns. This is so because the government's decision seems to help impose its legitimacy at time when the environment for competitive politics is virtually nonexistent. Is the government afraid of losing to the opposition or its constituents after the 3-year transitional arrangement? Or is the government, faced with the war it is accused of manufacturing, just desperate for legitimacy? The answers to these questions are anybody's guess, but what is rather clear is that the government's reliance on the constitutionality of the vote is less compelling. Evidently, there are many other more significant constitutional stipulations that would have to be met in order to have credible elections.

Lam Akol in a news interview we are reviewing herein stated the importance of political party registration prior to the general elections. This is in reference to the 2012 Act that is supposed to regulate the country's electoral conduct. As well, Political Affairs Council tasked with regulating national political parties has not been organized and sworn in. Elections whose process does not incorporate these stipulations are seen as a contravention of the laws/constitution. "So are you going to carry out elections in violation of the constitution and in violation of the law? The government did not swear in the body that regulates the different political parties. It is called the Political Affairs Council. It did not swear them in for two years," (Lam Akol; excerpts from VOA).

Feasibility

In January 2014, the government made a similar announcement², calling for both the national census and elections to be conducted in 2015. Our analysis of the announcement then supported the 2015 elections conduct. We had 3 primary reasons in support of our recommendation. First, demands for political transformations in the country have been quite high and fair elections are likely to prove satisfying. Secondly, our recommendations came at the time when the violence was fresh, hoping for an immediate resolution to the war. Finally, a timely end to the conflict meant sensibly enough time to prepare for the general elections. Despite increasing demand for radical reforms, unfortunately, violence continues to rage and the preparations required for meeting the elections deadline, including massive return-migration, are not in order. Economically distressed there are reasons to believe that the government lacks financial capability to conduct elections any time soon. In addition, June/July 2015 is merely 7 months away, virtually not enough time, especially if legitimacy and credibility are of any significance to the outcomes.

Going by the 2008 census results, over one-third (Upper Nile region) of the population won't be in a position to participate in these elections due to insecurity and widespread displacement. Likewise, heavy rains in June/July would make majority of the rural settings inaccessible for the national vote. The result would be general elections conducted only for and in the urban centers, making them less representative of the entire political constituency of the nation. This condition alternatively calls for a push in the general elections' date closer to the end of the dry season, presumably April 2015. Such makes the time to the general elections even shorter by 3 months, a period obviously not sufficient to produce credible electoral outcomes.

Political Implications

Public elections are normally about political dreams of the governed, in essence, the foundation of political legitimacy. Thus electoral processes are required to cohere with the notion of fairness, freedom of choice, and credibility. Credibility is a product of free choice and fairness. A coerced process is essentially devoid of fairness and freedom, the result of which being an undermined credibility. With rampant displacements and insecurity throughout the Upper Nile region, coupled with time and financial constraints, elections carried out in 2015 may not pass the test of any of these expectations, hence likely contested legitimacy, part of which is already in the making. The political meaning of the 2015 elections would be illegitimacy, as the government lacks a credible environment in which the current elections could be conducted.

² But due to extraordinarily high political demands and because the expectations for a credible, national census are equally relatively high, the conduct of the census can be postponed to a future date, while the 2015 national elections go on. Here, there would be no electoral constituency redistricting; instead, the 2008 census results may be reused to allocate constituencies as occurred in 2010, with slide adjustments to return-migration preceding December 15, 2013 (data could be obtained from IOM and UN OCHA). However, the recent shifts in the population due to the current violence remain a fundamental problem, and this needs resolving prior to the general elections. Essentially, return-migration must be made attractive.

Source: <http://suddinstitute.org/publications/show/the-2015-national-census-and-elections-an-analysis-of-president-kiir-s-announcements/>. The Sudd Institute.

Therefore, credible elections necessitate restoration of peace, operationalized institutional reforms, and substantial investments in reconstruction efforts. This process ensures following a number of important constitutional mandates such as political parties registration, census conduct, and the inauguration of the political party affairs council, to the letter and spirit.

Conclusions

While there is an aspect of legitimacy in the government's call to conduct elections in June/July 2015, the results would face serious credibility tests, and chief among them being the contravention of certain laws. Time and resource-wise, there is an underlying lack of feasibility. First, there is just not enough time to carry out the general elections. Secondly, there are no known financial resources to meet this demanding exercise.

Peace is required for an inclusive, credible electoral process. This calls for peace to be restored first, followed by radical reforms, and then political exercises as in the census and general elections. This suggests that all political exercises constitutionally committed to for the next 3 years should be postponed through constitutional amendments by the national parliament. The proposed extension lasting probably 36 months in accordance with the transitional period being currently propagated creates needed legitimacy for the sitting government and allows for peace to return to South Sudanese people. The government, while operating under new constitutional amendments, should continue to engage in inclusive political dialogues with the opposition until meaningful peace is achieved.

About Sudd Institute

The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

Author's Biography

Augustino Ting Mayai is cofounder and Director of Research at the Sudd Institute. As a demographer, his major research interests include childhood mortality differentials in the Sudan and South Sudan, applied quantitative methodology (econometrics), applied development research, social accountability and public service delivery, and the demography of conflicts and violence. Currently writing a dissertation that empirically evaluates the relationship between state effectiveness and child health outcomes in South Sudan and Ethiopia, Augustino is completing a PhD in Sociology and Development.