



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

P. O. Box 34, Juba, South Sudan • Tel: +211 (0)956 305 780
Email: thesudd.institute@gmail.com • www.suddinstitute.org

WEEKLY REVIEW

April 7, 2014

Alternatives to UN Trusteeship and Joint Administration Proposals Provided: A Response to Kuir Garang

Nhial Tiitmamer and Abraham Awolich

Introduction

This response is prompted by a written critique¹ of an article published by the Sudd Institute on March 11, 2014 regarding the proposed Joint Administration and UN Trusteeship. The Sudd Institute's article critiques the proposal of a UN Trusteeship and Joint International Community South Sudanese administration as potential mechanisms to end the ongoing political conflict in South Sudan. Mr. Kuir Garang, in his rebuttal to this article, published his views on his personal website on March 27, 2014. To stick to the South Sudanese local tradition, we address the author by his first name. The purpose of this response is to appreciate the critique provided by Mr. Kuir and make clarifications on some of the points he might have misunderstood in our article. We would like to first note that we appreciate criticism because it enriches our individual experiences as staff of the Institute and improves the way we fulfill our mission as a policy institution.

To begin with, Mr. Kuir categorically accuses us of the following:

- ✓ Dismissal of the two proposals without proper appraisal to present merits and demerits,

- ✓ And failure to provide a viable alternative.

Dismissal without appraisal

Our approach is to present both sides of a policy issue in order for policy makers to make an informed choice. So Mr. Kuir is right if we appear to have compromised on this principle. However, the critique we wrote did not require this for two main reasons. First, the main objective of Sudd Institute's weekly reviews is to provide brief commentaries on, and analyses of, the ongoing critical issues just to generate debate in a manner that can contribute to solutions. We only provide a comprehensive and in-depth analysis

¹ See Joint Administration and UN Trusteeship Insulting but not Outlandish published on March 29, 2014 by Kuir e Garang <https://docs.google.com/file/d/0B4Rt3RZe4rijczhOMnZUWVJ1bms/edit>

through policy briefs and special reports, which are five to ten and twenty–five to fifty pages respectively. In this case, the scope of our critique was limited to the length required for this type of publication. Readers are advised to read weekly reviews together with other publications of the Sudd Institute where deeper analyses are provided and different angles of the issues are looked at. Particularly, the relevant policy brief to be read together with the weekly review Mr. Kuir critiqued is an article published on February 24, 2014². We talked in details about how to end this conflict particularly in this article, in which we analyzed commonly used conflict resolution tools and provided appropriate recommendations to ensure long lasting solution to the current problems³. The said analysis looks at both the advantages and disadvantages of some of the options for informed application in the peace process. Our objective is to ensure our readers have a clear knowledge about the issues we discuss so they can arrive at effective interpretations and conclusions.

Second, even if the scope of Sudd Institute’s weekly review allowed a space, we could not still have provided the merits of trusteeship and joint administration because the proponents have already done so. The article was clearly a critique of the two proposals, which were covered by the authors. In a situation where the proponents provide the merits of a policy proposal, the logical thing to do is to provide the demerits and that is exactly what we did. By practice, it would be redundant for us to provide the merits again. Perhaps, it can be considered a mistake on our side to assume that people had read the articles we were critiquing. However, we directed the readers to the original articles. However, although we did not run readers through details, we summarized the basic premises of the proponents’ arguments as we critiqued them, which we consider sufficient for such a short publication.

Dismissal without a Viable Alternative

Mr. Kuir argues that we do not provide a viable alternative and advises to “avoid the developing culture in South Sudan in which ideas are dismissed without prescribing a viable alternative.” We will be the last to develop a culture of dismissing ideas without providing alternatives because we exist as an institution to provide opportunities for debate in order to develop workable ideas. It is our readers’ role to correct us if we deviate from this mission. However, in this particular case, we do not fail to provide an alternative.

First, we accept the ideas such as inclusive peace process and no return to status quo proposed by Lyman et al. as very valid policy contributions worth adopting towards ending the conflict and ushering in development. Someone who possesses a culture of

² See A Search for Long Lasting Peace: Ending South Sudan’s Devastating Conflict published on February 24, 2014. <http://www.suddinstitute.org/publications/show/a-search-for-lasting-peace-ending-south-sudan-s-devastating-conflict/>

³ See A Search for Lasting Peace: Ending South Sudan’s Devastating Conflict <http://www.suddinstitute.org/publications/show/a-search-for-lasting-peace-ending-south-sudan-s-devastating-conflict/>

dismissing ideas would not analyze proposed ideas and recommends some of them. Second, we recommended alternatives within the confine of the role the international community can play. We did so because we addressed how South Sudanese can solve this conflict in a different article whose recommendations we will highlight later. Perhaps Mr. Kuir has not read our other works. Our response also appreciates the contributions of the international community and how their continued support is essential in the country. These contributions are acknowledged and pegged to strengthening the local leadership. Instead of suggesting the international community to help South Sudan through either a joint administration or a UN Trusteeship, we stated that the international community should only be required to help “with mediation processes, protection of civilians, provision of humanitarian services, and exertion of positive pressure on the parties to end the violence and reach a comprehensive, homespun political settlement.” South Sudan has been under a UN Mandate in the last 9 years with little to show in terms of political and social stability in the country.

Apart from the presence of a robust military force, we also highlighted that almost every single government institution in South Sudan has been staffed with foreign consultants or advisors who instead of transferring skills to government employees, are engaged in doing the work themselves. The work of many of these consultants lacks context, as it is designed with other places in mind. We pointed out this as part of what has failed South Sudan. The fact that we are still talking about capacity building after nine years of capacity building is a testimony that the international community has failed in its approach in helping South Sudan. This is not to downplay the UNMISS’ crucial role of providing safe haven for thousands of civilians in its camps during this conflict. Still, UNMISS cannot teach South Sudanese how to co-exist. It is the South Sudanese who can create the means for peaceful co -existence.

In summary⁴, we suggested the following points under the current international arrangement with South Sudan as the alternatives instead of the trusteeship or joint administration:

- ✓ Any technical assistance must be timed with assurances or guarantees for knowledge transfer to South Sudanese within a reasonable time because poorly coordinated, endless capacity building programs which have been done in the last nine years are counterproductive and seem to make the government reluctant to shoulder the responsibility to prepare its workforce.
- ✓ Any multilateral or bilateral financial assistance should be delivered in terms of goods, for example, roads, hospitals, or schools and not necessarily as cash, except for special cases such as paying salaries for teachers, doctors and nurses. This should be done to prevent squandering development aid money as it has been the case in several incidents in the last nine years.

⁴See South Sudan’s Crisis: A UN Trusteeship or Joint Administration is Outlandish published on March 11, 2014. <http://www.suddinstitute.org/assets/Publications/On-trusteeship.pdf>

- ✓ Any exceptions for cash for fulfillment of such purposes can be built into the development agenda through the conditional cash transfer (CCT) program based on altering institutional or individual behavior to achieve development.
- ✓ To prevent the misuse of development aid money by individual political elites, the government and its partners should set up a system of accountability that compels both parties to make transparent decisions and spending. This kind of a system should be in the form of a bilateral memorandum of understanding or agreement that incorporates accountability and transparency reporting mechanisms.
- ✓ Any assistance, humanitarian, bilateral or multilateral, must aim at graduating South Sudanese institutions to assume full responsibility and complete its journey towards a stable nationhood. A perpetual humanitarian cushioning of the state is a recipe for the elite to milk the state and displace their responsibilities to foreign agencies

The above suggestions are alternatives in our view. In terms of administrative and political framework to end the conflict, we analyzed and suggested the following six points in the article published on February 24 as the possible means to end the conflict:

- ✓ Inclusive peace process so that it does not become another unsustainable peace agreement between those bearing arms and government in exclusion of wider society stakeholders. This will eliminate spoilers and allow everybody to own the outcome of the potential peace agreement.
- ✓ Broad based constitutional reform that involves popular participation in which a grand transformation of the whole society is stipulated.
- ✓ Power sharing arrangement tied to elections and grand transformation agenda.
- ✓ Dialogue and reconciliation where all the issues should be mapped out and the process gets a national legislative approval. The dialogue and reconciliation should include community to community in addition to political dialogue and reconciliation
- ✓ Justice and accountability. Options include hybrid independent investigation committee or national multi-ethnic investigation committee to determine atrocities and South African Truth and Reconciliation Commission model that incorporates some South Sudanese transitional justice elements with any of the options approved by the national parliament.

As to whether there is a ‘conducive atmosphere and a strong institutional soundness that can allow educated South Sudanese to effect the required change’, we suggest that necessary institutions and conducive atmosphere could be created. We believe that a grand transformation agenda, which includes the above mentioned six points and, agreed

by all parties with popular backing from the people, can prepare a ground for strong political maturity, strong institutions and sustainable development. One of the indications that a conducive atmosphere can be created is the fact that the government and the rebels are making efforts to end this conflict through peace talks. Our role as citizens along with international partners is to support this process in a manner that can bring a durable peace to the country.

Why the UN Trusteeship does not fit in South Sudan's context

That Mr. Kuir considers the UN Trusteeship or Joint Administration as an alternative does not necessarily invoke any UN law. Most fragile states should have been put under the UN trusteeship system, if fragility is an automatic invitation for the UN to take over a country. These issues can be dealt with through the suggestions mentioned early. Notably, under the UN Charter, article 78 of chapter XII, a territory that has become a member state of the UN cannot be placed under the UN Trusteeship System because the relationships between the member states are based on the principle of respect for sovereign equality⁵. Most of the areas held under trusteeship were either territories in transition to full independence or former colonies of the defeated powers after the World War Two.

The goal of putting territories under the international trusteeship system or UN administration is to help them realize their full potential for self-determination. The period during which South Sudan should have been placed under the UN trusteeship system ended after the people exercised the right of self-determination, when they chose to have an independent state. The trusteeship system is no longer active⁶ after the last country under the UN trusteeship gained independence in 1994. The only two countries administered by the UN after 1994 are Kosovo and East Timor and this was done before they became independent. However, a UN peacekeeping mission mandate can apply. For example, the UN Security Council authorizes a peacekeeping operation when a state threatens international peace and security and when civilian lives are threatened. However, under the said UN principles, South Sudan already has a UN Mission, which has military and civilian components to protect civilians and help with capacity building, whose failure we critiqued in the weekly review in question.

Apart from the fact that the UN trusteeship does not legally apply in the case of South Sudan, the two proposals we assessed do not provide convincing proofs, something that Mr. Kuir ignores to critique. While saying that a UN trusteeship or joint administration is insulting but not outlandish⁷ as we stated, Mr. Kuir fails to state why it is insulting. Mr. Kuir also fails to state why he declines to recommend the two proposals. The word *insulting*, in our opinion, radically conveys dismissiveness compared to *outlandish*. By saying the two proposals are outlandish, we mean they don't apply in the South Sudanese

⁵ See Chapter XII International Trusteeship System, <http://www.un.org/en/documents/charter/chapter12.shtml>

⁶ See International Trusteeship Status: <http://www.un.org/en/mainbodies/trusteeship/>

context. Perhaps it is a mistake on our side to have chosen such a word without explanation or definition. We think the two proposals are not insulting. They have been proposed out of context. The proposals should have sounded more appropriate prior to independence. Just to reiterate what we said early, it is not every independent fragile country that should be placed under the UN trusteeship system. If that is the case, most of the current independent unstable countries should have been placed under such a system. About egos, we don't oppose the UN Trusteeship or a Joint Administration on the ground of injuring our national pride. This is unfortunately a very misplaced assumption. We oppose these methods on lack of practical and contextual basis. We definitely want to see a practical and sustainable solution. But the UN Trusteeship or Joint Administration cannot provide a sustainable solution. A South Sudanese political settlement that incorporates a grand transformation agenda can provide a sustainable solution to this conflict.

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.

About the Authors

Abraham Awolich is a founding member of the Sudd Institute and currently runs administration and finance department. Awolich is a policy analyst and his research interests are in public administration, development, decentralization, NGO and public management, budgeting and public finance, community development, organizational justice and all poverty related issues.

Nhial Tiitmamer is Research and Training Officer at the Sudd Institute. He is also the Institute's lead person in environmental, energy and natural resources issues in South Sudan. Nhial received his undergraduate and graduate education in Environmental Studies and Sustainable Energy in Canada where he spent stints as an environmental consultant and research associate in environmental studies. Nhial is the co-founder of the NewSudanVision.com and has been an active member of the South Sudanese community in the Diaspora through which he has been involved in informed activism in issues about South Sudan.