Preventive Diplomacy and the Southern Sudan Independence Referendum (2010-11)

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Introduction

Sudan’s second civil war lasted more than twenty years, claimed more than two million lives, and left the country deeply divided between North and South. The 2005 Comprehensive Peace Agreement (CPA) ending the war was an attempt to mend these divisions and address underlying problems of political/ economic exclusion and second-class citizenship experienced by the southern population, providing for a six-year period in which the fundamental structures of wealth and power were to be reallocated. By establishing a semi-autonomous Government of Southern Sudan (GoSS) and allowing the Southern People’s Liberation Army (SPLA) to maintain a force of roughly 150,000 soldiers, the CPA granted enormous autonomy to the South from the outset. And with a series of protocols designed to foster wealth-sharing, territorial control, and governance across the country, the peace agreement was at its heart designed to build confidence between the two sides, to “make unity attractive” for a single Sudan. As a final test for that attractiveness, the CPA provided for a referendum on self-determination for southern Sudan, allowing the southern people to decide whether to remain part of a unified Sudan or become an independent country.

As the CPA entered its final year in 2010, it was clear that many of its key provisions had not been fully implemented, most importantly those related to decentralization of power and wealth, border demarcation, and resolution of the status of the disputed Abyei territory. Relations between the National Congress Party (NCP) in Khartoum and the Southern People’s Liberation Movement (SPLM) in Juba had disintegrated as both sides had failed to demonstrate good faith efforts on the CPA, and the overwhelming majority of the southern population was readying itself for a vote to secede. Unity had not been made attractive, the original intent of the CPA itself had failed.

In the year leading up to the January 2011 self-determination referendum, a growing chorus of voices sounded an alarm that the referendum could be a catalyst for a return to war. Uncertainty over Khartoum’s willingness to allow the referendum to take place or recognise its result remained high, while the African Union’s members were far from united in their positions on the possible creation of a new state in Africa. The lack of a clear roadmap for how the parties would negotiate post-referendum arrangements—which included difficult issues like oil revenue sharing, the status of Abyei and debt relief—meant that both parties appeared willing to use brinksmanship to gain their objectives. As late as September 2010, the US warned of a “ticking time bomb” around the referendum, while UN assessments described a plausible scenario in which a contested referendum triggered a “descent into widespread instability.”

Yet in the days before the referendum, President Omar al Bashir travelled to Juba and stood beside southern President Salva Kiir, promising to “congratulate and celebrate with you” should the southern people choose secession. Beside him, President Kiir looked out over a remarkably united southern Sudanese population, 98 percent of whom would vote for secession in a generally peaceful, calm manner, all but guaranteeing that South Sudan would become an independent country within months. What pulled these two leaders back from the brink of open war into a peaceful secession process? How did the very uncertain national, regional and international positions cohere into a unified expression of support for the referendum? And what role did the UN play in helping the key actors reach decisions that averted a return to violent conflict? These questions are at the heart of this case study.

Part one examines the lead-up to the January 2011 referendum, the positions of the NCP and SPLM leadership, the evolving stance of the regional leadership and bodies, and the interests of key members of the international community. Analysing these positions, and the overall uncertainty whether the referendum would take place, this section concludes that President Bashir’s willingness to allow and accept the referendum was the key variable in determining whether the parties would return to war. Uncertainty over Bashir’s position in the first half of 2010— and continued efforts of some elements of the NCP to undermine the referendum—kept risk levels high.

Part two assesses the decisions that avoided a return to violent conflict, most importantly President Bashir’s public acceptance of the referendum in early January 2011. The key factors influencing NCP decision-making were linked to the party’s desire to survive the referendum intact; hence, fears that military and economic risks could overwhelm the NCP were foremost on President Bashir’s mind, and potential sanctions relief played a key role. But equally important to the external and domestic factors pushing towards acceptance of the referendum were the mediators and envoys who met quietly with Bashir and the NCP leadership and convinced them to make the right decision. Persuasion—by the UN, AU and others—appeared to play a crucial role influencing that decision and thus in preventing a return to war.

Part three turns to the UN’s contribution to the parties’ decision to step away from violent conflict, looking at the extent to which the UN was able to exert direct and indirect influence. It concludes that the UN mediator had substantial trust and access to President Bashir during the critical period, able to pass and amplify messages directly. The UN was also able to exert indirect leverage over the decision-making process via a carefully maintained support role to the African Union, and by corolling international positions. As such, while the UN was not necessarily central to the decision to accept the referendum, it did appear to play a distinct and important role.

Part four looks specifically at what strategies and tactics worked best for the UN in the context of the lead up to the referendum. The most crucial elements that helped the
UN contribute diplomatically to conflict prevention were: (1) protecting the role of the UN mediator as impartial; (2) embracing a supportive role on the side-lines where necessary; (3) gaining leverage through coordination; (4) the mediators’ skills of persuasion and personal relationship with the key actors; (5) backing up the diplomatic effort with sufficient resources; and (6) translating early warning into action.

The study concludes by placing the referendum into the broader context of Sudan and South Sudan, and the extent to which the immediate diplomatic effort was sustained into the longer term. While many of the core disputes between Juba and Khartoum remain unresolved, the sustained diplomatic effort by the AU, the UN and others has allowed for a forum for continued negotiations, and the UN peacekeeping operation in Abyei has kept a potential flashpoint at bay. While the 2013 civil war in South Sudan points to obvious failures in the international community’s conflict prevention effort more broadly, the diplomatic effort to prevent North/South violence around the referendum does appear to have been relatively well sustained.

1. Risks of War as the Referendum Approaches

During the first half of 2010, the prospects for a peaceful southern Sudan referendum process appeared unlikely to many experts. In fact, following a two-year delay in the passage of the Referendum Act, whether the referendum was even logistically possible within the CPA timeframe was still an open question. And following an April national elections process marred by irregularities, and alleged human rights abuses by both sides, trust levels between Khartoum and Juba had dropped to new lows. As the head of the UN in Sudan at the time noted, “The elections were no longer part of the unity-is-attractive option, the South had already decided it would go for independence.” In this period of heightened tension and uncertainty, the risk of a return to violent conflict was, according to the UN Secretary-General, “a very real possibility.”

Throughout 2010, the risk of violence was driven in three principal areas— (1) potential military confrontation between the two armies, (2) the failure of the two sides to agree on post-referendum arrangements, and (3) delays in the technical preparations for the referendum. Behind all three, the deep-seated, often highly personalized, mistrust between the NCP and SPLM, and also between the NCP and much of the international community, meant that every small incident had the potential to escalate quickly.

Potential Military Confrontation

While much of this study is focused on the political processes that led to the referendum, it is important to underscore that two large armies were deployed in close proximity to each other throughout the lead-up to the referendum, ready to secure their respective interests militarily. In mid-2010, the Sudanese Armed Forces (SAF) had amassed troops along the North/South border, including near key oil-extraction sites, and SAF allies also operated throughout many of the armed groups inside southern Sudan. Likewise, of the more than 150,000 SPLA troops stationed in the South, large numbers were arrayed along the border, and SPLA-affiliates were highly militarized in the northern States of Blue Nile and Southern Kordofan as well. Lacking an agreed or demarcated border, and with some of the most lucrative oil reserves falling into disputed areas, these armies were on high alert through 2010, ready to back up the political negotiations with force if needed. And the NCP, looking for reasons to delay the referendum, frequently instigated small incidents across the border, supported renegade leaders in the South, and quietly provoked the SPLA at every turn.

For the most part, the SPLM’s overriding desire to reach the referendum meant that it kept its troops in a relatively reserved posture through much of 2010, willing to absorb provocations without escalating themselves while remaining actively deployed along the border. According to the UN, “the main risk of conflict in the North-South border area relate[d] to the parties’ mutual desire to control and protect oil- and mineral-rich areas as well as strategic defensive locations.” And as the political talks dragged on inconclusively—failing to build confidence that there would be agreement on the North-South border or the oil fields in disputed areas—both sides positioned themselves in increasingly aggressive postures, ready to act if these interests were under threat. As the referendum approached, experts argued that “a single hostile incident could inadvertently ignite much broader conflict.”

Stalemate on Post-Referendum Issues

Hanging over the referendum process was the unavoidable fact that the CPA parties had failed to resolve the most crucial elements of the peace agreement, some of which threatened to derail the referendum process entirely. These included demarcation of the North-South border, security arrangements between the two armies, revenue sharing for the oil reserves in southern Sudan, how Sudan’s massive debt would be distributed after secession, and the final status of the disputed Abyei area. Until early 2010, the NCP had refused any negotiation of these issues, arguing that doing so would presume a secession vote and would drive the parties away from the unity option. And even when the NCP reluctantly agreed to begin negotiations on these issues in the context of “post-referendum arrangements,” it was initially on the condition that all such arrangements would need to be concluded before the referendum could take place. As such, during the early months of 2010 the NCP positioned itself as a potential spoiler, arrogating the ability to stymie the referendum simply by refusing to agree on any one of the post-referendum issues.

The stalemate over Abyei was especially threatening, as both sides saw the issue in zero-sum terms. Under the CPA,
the status of Abyei (as belonging to either the North or the South) was meant to be decided by its own referendum, to be conducted concurrently with the one for southern Sudan. However, the NCP and SPLM were cognizant that the future of Abyei hinged entirely on the question of voter eligibility: in simplified form, if eligibility included a residency requirement—meaning full-time residence in Abyei—then the Misseriya Arabs who migrated seasonally from the North through Abyei would be excluded, and the year-round resident Ngok Dinka would guarantee that Abyei went to the South. If, however, there was no such residency requirement, the North could quite easily amplify the number of Misseriya eligible to vote, and possibly determine the referendum in favour of the North. With neither side willing to give an inch, and the NCP initially insisting that Abyei (along with all other post-referendum arrangements) needed to be agreed before the southern Sudan referendum could take place, Abyei presented a direct risk to the referendum and the broader CPA process.

Technical Preparations

Deep mistrust between the NCP and SPLM throughout 2010 meant that every preparatory step for the referendum was potentially explosive. When the two sides could not agree on eligibility criteria for southerners living in northern Sudan, fears that the NCP would defraud or intimidate southern Sudanese led to the displacement of hundreds of thousands of people towards the South. Similarly a nine-month stalemate between the NCP and SPLM on candidates to lead the Southern Sudan Referendum Bureau (with each side insisting upon a representative from their own constituency) meant that the Referendum Commission was constituted only four months ahead of the January 2011 voting date. With approximately four million voters to register in stations spread across a massive and often inaccessible terrain, four months was an extraordinarily short time to prepare.

Even after the Referendum Commission was constituted and technical preparations were underway, there was a risk that NCP resistance to the process could derail the referendum. According to several interlocutors involved in the process, during the late summer of 2010, the Chair of the Referendum Commission based in Khartoum received a series of threats on his own life and those of his family, allegedly from high ranking NCP members. These threats were apparently designed to force him to resign, an act which “would have been the end of the referendum, at least one within the CPA timeframe.” Other alleged instances of meddling included voter intimidation and harassment took place in the lead-up to the voter registration process.

While it is impossible to verify the extent of NCP meddling in the referendum preparations, widespread perceptions that Bashir’s government was throwing numerous obstacles in the way drove tensions between the parties to new heights. And these technical issues and potential delays were not innocuous, given President Kiir’s view that the timing of the referendum was “sacred,” and his credible, public threat of “a return to war in case of delay or denial of this exercise.”

The Zero-Sum Game: NCP and SPLM Interests and Positioning

The risks of escalation throughout 2010 were largely the result of the NCP’s and SPLM’s distinct and opposing goals. How the parties’ positions evolved during the second half of 2010 had a direct impact on the immediate risks of military confrontation, the extent to which the post-referendum arrangements might scuttle the overall process, and the crucial question of whether the referendum could take place at all. As such, a closer look at each party’s core interests is warranted.

For the ruling NCP, and President Bashir in particular, the overriding objective was to stay in power. This was no easy feat for Bashir, who faced divisions within his own party over the referendum, and myriad external challenges to his twenty-year dominance of Sudan. Within the NCP, longstanding hardliners—including the influential NCP deputy chairman Nafie Ali Nafie—had begun to more openly oppose the referendum and challenge more moderate NCP elements, accusing some of Bashir’s inner circle of “being responsible for the break-up of Sudan.” This criticism cut deep, as Bashir had risen to power on an Islamist, pro-Arab platform. Allowing non-Muslims from the South to “take” Sudanese land was a direct affront to that platform, and a potentially devastating blow for Bashir’s standing. Deputy Chairman Nafie, riding on the political momentum he had gained by helping to secure the April 2010 elections for Bashir, was able to stock the NCP cabinet with other hardliners, placing greater pressure on Bashir to oppose the SPLM at every turn. Through the late summer and early fall of 2010, as Bashir began to face increasing external calls for the NCP to unblock bottlenecks and allow the referendum preparations to proceed, these internal fissures and pressure points played an important role in his decision-making.

The NCP survivalist drive was a deeply economic one as well. During 2010, the already weak Sudanese economy had taken a dive in the wake of inflation, corruption and widespread expectation of southern secession. With roughly 80 percent of Sudan’s pre-secession oil reserves located in the South, the NCP was acutely aware of the enormous risks posed by secession, which also threatened to saddle Khartoum with the entirety of the country’s $38 billion in debt. In the NCP’s view, these were both zero-sum issues: every barrel of oil and every dollar of debt was either going to Khartoum or Juba. And with Juba clear that “everything was negotiable except the referendum,” the NCP treated the economic issues with maximum brinksmanship and minimum flexibility.

As the referendum approached and became more of a reality, the NCP position on these economic issues in fact hardened, as they saw the key point of leverage with the SPLM slipping away. This was in part the result of the CPA itself: the NCP leadership viewed their agreement to the CPA in 2005 as a
concession itself, one which had not been rewarded with any of the promised benefits at the time. They would not make the same mistake again and were adamant that they would maintain leverage and relevance beyond the referendum. Adopting an intransigent stance on the post-referendum negotiations was one way for the NCP to ensure that the party maintained such relevance after secession, and to guarantee that it “remain[ed] indispensable for North-South cooperation.” To lock this in, the NCP appeared ready to hold out on any agreements until a real economic benefit was on the table.

President Bashir’s drive to stay on as head of the NCP and President of Sudan was an intensely personal one too. In March 2009, the International Criminal Court had issued an arrest warrant for Bashir, for alleged crimes against humanity in directing the attacks on civilian populations in Darfur between 2003 and 2006. Avoiding extradition to The Hague appeared to be a factor in Bashir’s calculation, one where staying on as head of state and continuing to foment the African Union’s dislike for the ICC was probably the safest route. Having won the elections in April 2010, Bashir had consolidated his hold on the presidency and had achieved a key win from a CPA-required process; from the moment of his re-election, however, the remaining elements of the CPA appeared as potential threats, economically and politically. Above all, the referendum, which could turn Bashir into the scapegoat for the biggest loss of territory in Sudan’s history, posed a real risk to his standing within a fractured leadership in Khartoum that was far from settled on whether the South should be allowed to secede.

The result of this was that President Bashir and the NCP did almost nothing to prepare the northern population for the reality of the referendum through 2010. There was no public debate about the likely impacts of the referendum, no messaging by Khartoum, and essentially no visible preparation ahead of the process. Crucial questions—such as the rights of southerners living in the north to visit their families, or the status of northern currency in the south, or whether cross-border trade would be allowed—were essentially ignored as the NCP appeared to focus on its own survival. For their part, the SPLM and President Kiir had a similarly singular drive, but for independence. Achieving this required internal cohesion across a fractious and undisciplined set of political leaders and communities in southern Sudan, many of whom saw the end of the CPA period as an opportunity to jostle for political and military power. As one UN official commented, a key focus for the SPLM was “quelling conflict drivers within its own territory” to ensure that a peaceful referendum was not scuttled by southerners themselves. President Kiir took drastic steps to ensure this cohesion, including convening a 24-party conference in early 2010 where the southern leadership committed to a common effort towards the referendum. This was not free of cost: Kiir reportedly spent significant portions of southern Sudan’s oil revenues in 2010 buying off the many SPLA generals who might have caused trouble ahead of the referendum. Kiir also offered pardons to military officers who had led rebellions in the recent past, and agreed to a ceasefire with the rebel commander George Athor, who had been allegedly supported by the NCP in his uprising against the SPLM.

Just as important, however, was the SPLM’s fundamental need for guarantees that the NCP would cooperate with the conduct and outcome of the referendum. As Crisis Group reported, “the SPLM wants assurance that the referendum will happen and that Khartoum will both accept the result in good faith and be the first to extend recognition if the vote is for secession.” While focused on achieving a credible vote in January 2011, the southern leadership was keenly aware that only a referendum agreed and accepted by the North would result in a peaceful secession; anything less would lead in the direction of violent conflict. The UN’s internal analysis at the time found that “readiness of the North to accept peaceful secession of the South” was the most important factor in containing the risk of violent conflict in the referendum period. According to some experts, Juba appeared willing to make major concessions on other issues to secure the NCP’s buy-in to the referendum, but ready to go straight to war if a credible threat to the referendum arose.

The view that the SPLM was willing to give everything away to get to the referendum, however, is misleading. In fact, the SPLM leadership was well-aware of their favoured position within the international community (with the US in particular), and according to many experts the SPLM had grown used to being accommodated by Western donors well before the CPA period. Far from being desperate negotiating partners looking to give away anything in exchange for the referendum, at least some within the SPLM leadership appeared unwilling to concede anything to the North, potentially relying instead on the international community to deliver them a good deal in the end. As evidence of this, even in the crucial weeks immediately preceding the referendum, SPLM negotiators gave almost no ground on key post-referendum arrangements such as oil revenue-sharing, debt and borders, and remained completely unwilling to budge on Abyei.

Neither NCP nor SPLM positioning can be separated from the individuals involved, many of whom had been bitter rivals during the twenty-year civil war and appeared too personally vested in the outcome of the negotiations to make any concessions. For example, one of the chief negotiators for the SPLM, Deng Alor, was an Abyei-born Dinka who, according to one UN official “would rather cut his own throat than ever give away Abyei.” President Bashir was equally linked to the Abyei issue, having been formally adopted by one of the Arab Misseriya tribes that led their cattle through Abyei every year and claimed the area as its home. Nearly every member of both negotiating teams had a personal history within the conflict, and a deep personal investment in its outcome. One of the UN officials most directly involved noted, “The existing players, while they’re alive, could never solve some of these problems, it’s just too personal for them.”
Regional Stances

The southern Sudan referendum was not merely the culmination of the CPA; it represented the division of Africa’s largest country and a validation of a violent secessionist movement. With many other African countries facing rebellions from large minority groups, the precedent that might be set by the secession of southern Sudan was a potentially dangerous one, and not easily accepted by individual countries or the African Union membership. Understanding the positions of key regional actors, and how they were influenced over the course of 2010, is a key part of the preventive diplomacy story.

Solidly in the “pro-referendum” camp were Kenya and Uganda. Kenya was host and leader of the Intergovernmental Authority on Development (IGAD) process that yielded the CPA, and thus had an especially strong interest in seeing it implemented completely (a position echoed by IGAD itself). Uganda, with burgeoning trade across the border with southern Sudan and needing a stable buffer on its conflict-prone northern border, was not only encouraging the referendum, but was quietly hoping for independence. Both of these countries had positive relations with, and influence over, the political leadership in Juba.

Though Ethiopia had historically assisted southern Sudan—and indeed the SPLA—as a counter to Islamist elements in Khartoum, its own position was trickier. Facing a volatile situation in Somalia, continued confrontation with Eritrea, and increasing domestic fragility, “Addis [could] afford neither renewed war in Sudan nor to antagonise Khartoum,” given the likely spill-over of instability into Ethiopia. And Prime Minister Meles Zenawi, one of the elder statesmen of the African Union and the most influential regional leader, was cognizant of his own weight with the process, careful not to visibly upset the balance. His role, as discussed below, was perhaps a decisive one in the crucial months leading up to January 2011.

Egypt was most visibly in favour of a unity outcome and had opposed including the self-determination referendum in the CPA talks at all. As a recipient of the waters of both the Blue and the White Niles, Egypt had one of the most direct interests in whether the parties maintained a positive relationship and was thus ready to exert influence in the lead up to the referendum.

The African Union (AU) was “an instinctively pro-unity institution” which, in the first half of 2010, was not coherently positioned on potential secession of southern Sudan. In fact, many of the AU’s key members appeared more concerned with the precedent that secession might set for stability in their own countries than ensuring the southern Sudan referendum’s success. Given that South Sudan would need the AU’s recognition if it was to succeed as a new country, the AU’s relatively uncertain positioning in the first half of 2010 appeared a worrying issue for the SPLM leadership. The AU also carried significant weight with Khartoum when it came to influencing decisions around the referendum.

The so-called “Troika” countries—the US, UK and Norway—had played a central role in the creation of the CPA and were deeply vested in its success. The US in particular saw the peaceful secession of southern Sudan as the culmination of a long diplomatic effort in support of Juba, massive aid to southern Sudan over a more than twenty-year period, and part of Washington’s global policy to protect non-Muslim populations from repressive Islamist regimes. Many in the US administration, including US Permanent Representative to the UN Susan Rice, had developed strong ties to the SPLM leadership, while also adopting strongly critical positions on Khartoum. In fact, much of the below analysis revolves around US efforts to unlock the NCP/SPLM negotiations, and the extent to which the US economic offers could be packaged in a palatable fashion for a distrustful NCP.

2. Walking Back from War

On 4 January 2011, just one week before the southern Sudan referendum, President Bashir travelled to Juba and announced his support for the vote, promising to “congratulate and celebrate” should the southern people choose secession. His announcement was welcomed by the African Union, which stood in unison behind the referendum process, and by an international community that had largely criticized and isolated Bashir and his government throughout the CPA process. Crucially, Bashir’s declaration convinced a deeply sceptical southern population that indeed the NCP would allow the referendum to take place, without which they were readying themselves to return to war. One week later, the people of southern Sudan voted in a peaceful referendum which set them on an irrevocable course to full independence. How was Bashir convinced to take this course of action? What persuaded him to go against the increasingly hard-line elements of his own party, accept that he would be blamed for the loss of Sudan’s most lucrative territory, and lose the biggest piece of leverage he had over all other elements of the CPA?

Delinking the Referendum from Other Negotiations: the AU Takes Centre Stage

As described above, the NCP was initially adamant that the referendum be part of a broader set of arrangements, all of which needed to be concluded prior to the referendum. Had the parties proceeded in this way, the referendum almost certainly would not have taken place: Even today, Sudan and South Sudan have not agreed on some of the most fundamental issues originally required under the CPA. The decision to delink the post-referendum negotiations from the referendum process itself was thus a crucial one in stopping the NCP from being a spoiler to the referendum. And it was largely made possible by the confidence the AU mediation instilled in Bashir and the NCP leadership that Khartoum’s core survival interests would not be threatened.

The central player in this was the African Union High-Level Implementation Panel (AUHIP), led by former South African...
President Thabo Mbeki and former presidents Abdulsalami Abubakar (Nigeria) and Pierre Buyoya (Burundi). While the AUHIP originally had been tasked with a report on the Darfur conflict,66 in early 2010 its mandate was shifted by the AU Peace and Security Commission to “assist the Sudanese parties in implementing the CPA and related processes.”67 This placed the AU at the center of the talks between Khartoum and Juba (a decision supported by the UN leadership).68 In June 2010, the AUHIP brokered the “Mekelle Memorandum” which committed the parties to holding talks on key post-referendum issues, facilitated by the AUHIP and supported by IGAD, the Assessment and Evaluation Commission,69 and the UN.70 This was a critical breakthrough, creating a forum separate from the referendum process in which post-referendum issues could be negotiated, and allowing the referendum preparations to proceed independently. Even when the negotiations failed to make any real progress in the subsequent months, the NCP had far less opportunity to hold the referendum hostage. As Crisis Group pointed out, “the impasse over post-referendum arrangements did not directly impede technical preparations for the referendum.”71 While this may have made the SPLM even more intractable—as they could be reasonably confident of getting their referendum even if the other talks stalled completely—it achieved the main objective of firewalling the referendum preparations from NCP intransigence.72 The key factor in this was the decision to place the AUHIP at the center of a negotiation process that the NCP had instinctively distrusted. Thabo Mbeki, as a former head of state and heavyweight within the African Union, “had the credibility to reassure Khartoum that they would not lose everything in the referendum, that there was a soft landing for the NCP at the end of the negotiation process.”73 Mbeki could speak to President Bashir on his own terms, and had a similar distrust of western interventions in African conflicts.74 In fact, according to several interlocutors, it was Mbeki’s personal involvement in the post-referendum arrangements that gave the NCP sufficient confidence to allow the negotiations to proceed separately from the referendum preparations, thus clearing an important obstacle.75 Placing the AU at the center also addressed a thorny issue for the UN: the peacekeeping operation deployed in Khartoum (UNMIS) did not have a clear mandate beyond the CPA period. The UN was thus poorly placed to directly facilitate talks on post-referendum issues, because it was not necessarily going to be present to see them into implementation.76 The shift to the AU-led talks thus not only led to a more solid political engagement by the parties, but also a clearer mandate to speak directly to issues that would extend beyond the CPA timeframe. As will be described below, this did not remove the UN from the negotiation process, but rather placed emphasis on the AU as the central broker with the parties.

**Convincing Bashir to Support the Referendum**

There is no definitive account of the moment President Bashir decided to support the referendum, and there may have been a significant gap between the NCP’s internal decision and Bashir’s January 2011 declaration in Juba. By some accounts, Bashir formally told his leadership that the referendum should be allowed to proceed during the November NCP Shura council meeting.77 But according to the UN Special Representative in Khartoum at the time, Bashir and the NCP understood much earlier that the referendum was inevitable: “By summer 2010, it was clear to us that Bashir knew he had to accept the referendum, even if he wasn’t ready to say it publicly. But getting him to that point, and helping to move the NCP in a direction that would allow the referendum to proceed smoothly, that was something all of us were speaking to him about all the time.”78 This view is supported by other key stakeholders involved in the negotiations.79

Before examining the factors that contributed to Khartoum’s decision to embrace the referendum, it is worth recalling that President Bashir and the NCP had a long and successful history of resisting external pressures and making decisions based on calculations of self-interest and divide-and-rule tactics against their enemies.80 “The Government in Khartoum was very sophisticated, they understood exactly what was involved in the South’s decision to go, and they were making calculations as to what they could get out of it from everyone involved.”81 While it is easy to overemphasize the impact of external pressures, Bashir’s own calculation as to what was best for himself and the NCP should be kept at the centre.82 That said, three factors do appear to have helped sway Bashir and the NCP towards acceptance of the referendum.

1) Normalization

President Bashir’s survivalist instinct appeared most actively triggered by the economic woes of Sudan, and the crippling sanctions imposed by the US and other western powers. The most damaging sanctions were linked to the US designation of Sudan as a state sponsor of terrorism and the absence of diplomatic relations between the two countries. Steps to remove Sudan from the terrorism list and begin to alleviate the harsh sanctions regime would send a positive signal about Sudan’s status in the international community, and more tangibly offset the downward trajectory of the Sudanese economy at a critical moment. According to one UN official involved, “Bashir was desperate to end the sanctions, this was the biggest carrot for him.”83

Throughout 2010, the US had tried to cajole Khartoum with the prospect of removal from the terrorism list and sanctions relief. In early November, the Obama administration presented an offer to lift the US designation of Sudan as a terrorism sponsor, normalise diplomatic relations, press Congress to remove unilateral sanctions, and work towards a multilateral debt relief package to offset the costs of partition.84 In exchange, the US asked Khartoum for a smooth referendum and acceptance of the result, recognition of the rights of southerners remaining in the north, that Khartoum refrain from military action along the North-South border,
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and agreement on key post-referendum issues.\textsuperscript{45} But the US added a final set of conditions related to Darfur, including contentious demands related to the support of militias there.

This was a potentially lucrative offer which contained much of what Bashir and the NCP needed most. According to some experts, it was “the kind of big ticket item that might alter the equation.”\textsuperscript{46} However, the NCP remained extremely wary of offers from Washington. This was in part because the NCP felt that similar offers had been made in 2005, to achieve their agreement on the CPA, and in their view the US had reneged on these.\textsuperscript{47} It was also clear to the NCP that the Obama administration could not deliver all of the offer: while removal from the terrorism designation list and some sanctions relief was within the president’s discretion, the broader sanctions and debt relief was in the hands of a Congress that had shown no sympathy for Khartoum in the past. As the former US Special Envoy to Sudan and South Sudan stated, “there was too much in the US offer that was out of Khartoum’s control.”\textsuperscript{48}

And the personalities involved did little to mitigate the American credibility deficit: US Ambassador to the UN, Susan Rice, in particular was seen by the NCP as an ardent friend of South Sudan and opponent of Khartoum, while the US Special Envoy to Sudan, Scott Gration, had not demonstrated his ability to deliver in the talks thus far. The introduction of Darfur-related conditions into the offer appeared to have been particularly jarring for the NCP, potentially turning the offer into a Trojan horse for a much wider set of unpalatable asks.\textsuperscript{89} At one point in September, then US Senator John Kerry attempted to bolster the US offer by indicating his willingness to press Congress on sanctions and debt relief, which may well have helped the standing of the US offer with Bashir, but at no point was there a clear indication from Khartoum that the NCP was ready to move forward on a deal in the short-term.\textsuperscript{90}

The US role was central to the negotiation process of 2010, and both UN and AU interlocutors pointed to the US economic proposal as one important factor in bringing the NCP to the table.\textsuperscript{91} But most accounts suggest that the economic relief package was not sufficient in itself to sway Bashir’s opinion, in part because it simply wasn’t clear to the NCP that the US could or would deliver.

2) The Costs of War

By many accounts, one of the key factors in President Bashir’s decision to support the referendum was the high cost of a return to war, both from a political and an economic standpoint. The SPLA had used the CPA interim period to build a massive and fairly well-organized fighting force, with tens of thousands of troops stationed directly along the North-South border. SPLA-affiliated troops in Southern Kordofan and Blue Nile States increased the military threat to Khartoum, while the simmering conflict in Darfur meant that Bashir would have had to contend with several potential fronts if violent conflict did break out. “Bashir couldn’t fight multiple battles on multiple fronts,” a UN official involved in the process pointed out, while another echoed, “Bashir had to break things up into manageable pieces, he couldn’t afford to go to all-out war.”\textsuperscript{92} Southern leaders played on these fears and warned that, if a future conflict broke out, unlike the last war, this one would be fought on northern territory, potentially even in Khartoum.\textsuperscript{93}

The economic costs of war were also a factor in this case. One think tank calculated that war between North and South Sudan would cost the country $50 billion in lost GDP, compounded by another $25 billion in related costs to Sudan’s neighbours.\textsuperscript{94} Already facing growing inflation and a potentially massive economic hit via the southern oil reserves, such costs “may have been a burden that the north simply could not have endured . . . possibly jeopardizing [the NCP’s] hold on power.”\textsuperscript{95} Importantly, the NCP had survived largely through a patronage network in which key constituencies required a steady stream of largesse from Khartoum’s coffers. With fractures apparent across the NCP and its allies, Bashir would have been especially sensitive to any potential threat to his ability to buy loyalty.\textsuperscript{96}

The NCP’s self-interested calculation appeared to take into account that accepting the referendum would immediately reduce these risks. While Khartoum would still have to contend with insecurity in Darfur and simmering issues in Southern Kordofan and Blue Nile, the immediate threat of military confrontation with the South was almost entirely linked to the referendum. Similarly, while Khartoum still faced major economic uncertainties, the potentially catastrophic cost of all-out war was pushed into the background as soon as Bashir publicly accepted the process. As events subsequent to the referendum demonstrate, even the SAF’s takeover of the Heglig oil field and much of the Abyei territory in the period following the referendum did not trigger a wider conflict. This was in part because the SPLM had gotten what it wanted and was no longer ready to go back to war.

3) The Art of Persuasion

The ancient Athenian thinker Themistocles spoke of two gods, one of compulsion and one of persuasion. The above analysis has focused on the factors that may have compelled Bashir to accept the referendum, but equally important were the individuals who were able to persuade him to do so. There is general consensus from a range of sources that three of the crucial actors in this were Ethiopian Prime Minister Meles Zenawi; AUHIP Chair and former South African President, Thabo Mbeki; and the UN Special Representative in Sudan, Haile Menkerios.\textsuperscript{97} Together and separately, they were the quiet voice in President Bashir’s ear that, according to many directly involved, eventually persuaded him to publicly accept the referendum.

Meles Zenawi was a dominant force within the AU, the most influential head of state amongst Sudan’s neighbours, and chair of the IGAD group tasked with supporting the CPA.
process. He thus played an important dual role in trying to convince Bashir to take a constructive line on the referendum, while also acting as a guarantor of the AU’s position. “Meles was very important in convincing Bashir that there could be a positive future for Khartoum after the referendum,” said one UN official involved in the process. Zenawi’s personal participation in many of the meetings in which the parties tried to resolve key issues ahead of the referendum—most notably Abyei—lent a weight to the process that otherwise could have been missing, and a sense that Khartoum would not be isolated even after secession. And Ethiopia, a non-signatory to the ICC, was a safe and neutral place for high-level negotiations in the run-up to the referendum.

President Mbeki was similarly a massive figure within the AU, capable of influencing the organization’s position on the CPA process, and explicitly tasked with addressing the most critical issues between the NCP and SPLM. Like Zenawi, Mbeki was able to meaningfully reassure the NCP that the referendum would not spell the end of their regime, and that the negotiations would not result in a windfall for the South. And like Zenawi, Mbeki was able to help corral the AU position behind the referendum process, adding pressure on Khartoum to accept the outcome. The AUHIP sometimes also played a bridging role, allowing the US and others to relay proposals on particular post-referendum issues in a way that appeared less threatening to the NCP.

One UN official described Haile Menkerios as “the catalyst for Mbeki and Meles,” the person who was able to bring their leverage to bear most directly on President Bashir. While both President Mbeki and PM Zenawi had pre-existing relations with President Bashir, it appears that SRSG Menkerios was able to bring the actors together in a unique way. An Eritrean former freedom fighter with a long history of diplomacy in East Africa, Menkerios carried respect within the AU leadership, maintained good relations with the US administration (including Susan Rice) and was seen by Presidents Bashir and Kiir as an honest broker. “Only Haile could bring together Meles and Mbeki with Bashir,” said one UN official involved in the process, “and Haile was the only person all three of them listened to.” While this may not be strictly true—both Mbeki and Meles had the clear ability to meet with Bashir on their own, and did—the role of Menkerios as a facilitator and coordinator of these meetings and their core messages does appear to be important.

Throughout 2010, Meles, Mbeki and Menkerios took turns meeting with President Bashir and the NCP inner circle on dozens of occasions. Some of these were direct negotiation settings, but many were discreet meetings in Khartoum for which there was no public announcement or record. “Mbeki, Meles and I agreed on our approach,” recalls SRSG Menkerios. “Our goal was to show Bashir that the referendum was a separation, not a divorce. They had failed to make unity attractive, but there was a way to keep positive relations between North and South after a separation; fighting tooth and nail on the referendum itself would not lead to that soft landing.” A former member of the AUHIP agrees, that “without the three of them it would have been much more difficult to steer the situation in Sudan towards a peaceful referendum.”

Bashir’s eventual decision to publicly embrace the referendum may not have resulted wholly from the rhetorical powers of the Meles-Mbeki-Menkerios interventions, but most officials involved agree that the constant, personalized attention to Bashir seemed to help shift his mind. Certainly, the behind-the-scenes work that Mbeki and Meles did to gather the AU into a consolidated position in favour of the referendum also appeared to add pressure on Khartoum. And it is important to remember that President Bashir was an isolated character, surrounded by his NCP inner circle and shunned by the bulk of the international community. Limited contact meant limited leverage, particularly for key western actors trying to influence the process. But this may have given the Meles-Mbeki-Menkerios trio greater weight when they gave direct assurances that Sudan could thrive following the referendum if the NCP took a constructive line.

Again, it is worth stressing the NCP’s core survivalist goal. Through late 2010, there was little on the negotiating table that offered a clear path for the NCP to strengthen its position; in fact, the elections that resulted in a landslide win for Bashir in April 2010 may have limited the appeal of other, less tangible, carrots. The US offer of sanctions relief and other economic gains, while potentially game-changing, was also possibly a mirage, nothing the NCP felt it could grasp firmly. Likewise, the SPLM had put nothing forward in the negotiations that would directly benefit Khartoum; Kiir’s refusal to budge on key economic issues like oil revenue-sharing and debt-sharing meant that the NCP saw little benefit from the Juba negotiating team. With western powers largely arrayed favourably towards the SPLM, it was difficult for the NCP to see any wins out of the CPA once the April 2010 election was over. In contrast, Meles, Mbeki and Menkerios offered Bashir a vision of survival for himself and his party, the potential of a “soft landing” through the referendum, and a set of arguments that Bashir and the NCP did have a path to get through the CPA process intact.

3. The UN’s Contribution to Preventing War

Looking broadly at the UN’s role in Sudan through 2010, there is a long list of key actions that facilitated a peaceful referendum process. UNMIS’s deployment of troops along the contested North-South border almost certainly played a role in helping to ward off potentially escalatory moments. The UN’s technical support to the referendum itself, spending roughly $85 million in support, while helping to set up the registration and balloting process for roughly four million voters, was instrumental in delivering the vote on 11 January. And experts have pointed to a range of other activities that helped stabilise southern conflicts and mitigate
the risks that tensions elsewhere in Sudan might spill over during the referendum period. The full range of the UN’s work can thus be considered within the Secretary-General’s Sudan-wide strategy articulated in January 2010, aimed at addressing the many related risks to the country’s stability at the time.

While these engagements are important, for the purposes of this study they constitute a backdrop to the core diplomatic activity of the UN focused on the referendum, which contributed in three principal ways: (1) directly, in terms of convincing President Bashir and the NCP to de-link the post-referendum issues and accept the referendum; (2) indirectly, by buttressing the work of the AUHIP and helping to ensure that the talks did not derail the referendum process; and (3) at the level of geopolitics, by bringing together regional and international positions to increase pressure on Khartoum to allow the referendum to proceed.

Taken together, this case study has argued that the UN’s intervention played an important, if often indirect, role in ensuring that the referendum took place in January 2011. Most experts at the time agree that, absent the referendum, the risk of a southern unilateral declaration of independence was extremely high. With two million killed and four million displaced in the previous civil war, the risk of massive human costs were enormous, and the need for preventive diplomacy a highest priority for the UN.

1. SRSG Menkerios’ Direct Engagement with Bashir and the NCP

As described above, SRSG Haile Menkerios engaged directly with President Bashir and the NCP leadership, helping to convince them to accept the outcome of the referendum. Accounts from those involved agree that this direct contact appeared to help shift the balance, along with other factors, and played a role in assuring the NCP that their survival was not at stake.

Menkerios strengthened his hand in this respect by actively carving out space for himself as an impartial actor, distinct from his role as the head of UNMIS. Crucially, in early 2010 he proposed to the Secretary-General the creation of an independent “Secretary-General’s Panel on the Referenda,” headed by former Tanzanian President Benjamin Mkapa and tasked with monitoring the referendum process and providing good offices to the parties to help them resolve differences. While UNMIS was still mandated to provide technical support to the referendum, the important task of assessing progress on the overall process was delegated to the Panel. “This showed that the referendum was important, not just for Sudan but for the whole African continent; it reassured both parties that Africa cared about the outcome.”

The creation of the Panel also kept SRSG Menkerios above the politicized fray of assessing referendum preparations, protecting his role as a mediator between North and South. “The Panel freed Haile [Menkerios] from being judge and jury, and allowed him greater standing with the parties,” a UN official involved in the process noted. Some experts suggested that without the Panel, UNMIS and Menkerios would have been asked to play more of a role in assessing the referendum, potentially putting him in opposition to the NCP—which stood accused of meddling in the preparatory process—and almost certainly would have limited his access and trust levels with President Bashir.

2. The UN’s Indirect Leverage through the African Union

The key proposal to de-link the post-referendum issues and place them under the charge of the AUHIP was first floated by Menkerios in the first half of 2010. Similarly to the decision to establish the Panel on the Referendum, this conferred a key mediation role to another entity: the AU. However, far from reducing the UN’s capacity to contribute politically, if anything it appeared to provide greater scope for Menkerios to engage with and influence the parties on behalf of the UN.

This was because, as described above, the NCP was deeply wary of western interventions in Sudan and particularly suspicious of the UN, which it saw as pursuing an anti-Bashir agenda via the mission in Darfur and in its support to southern Sudan’s institutions. And UNMIS, which had for the previous six years reported on northern violations of the North-South border and poured significant resources into mainly southern infrastructure, was clearly not impartial in the NCP’s eyes. The decision to locate the post-referendum negotiations under the AUHIP rather than UNMIS appeared to allay many of these concerns and may well have rendered the NCP more amenable to the negotiation process. The access and leverage this achieved with the NCP should not be underestimated.

Vis-à-vis the AUHIP structure, Menkerios had a privileged role, able to access Mbeki directly and participate in the talks as needed, but also with independence to engage separately and create unique constellations of actors. “We worked as one team under the leadership of the AUHIP,” Menkerios recalls, “and that team was able together to build a very close relationship with the two governments; we could not have done this alone.” Equally important, was the ability to act independently: “We worked on the basis of a common strategy and a common set of messages,” Menkerios notes, “but we were all able to meet Bashir separately, pursue our own lines of engagement.”

SRSG Menkerios’s role as both within and outside the AUHIP mediation also allowed him to bridge the process with other key actors, the US in particular. “Haile [Menkerios] was the only person who could bring together Mbeki, Meles [Zenawi] and [Susan] Rice,” said one person involved in the mediation, meaning the UN was uniquely placed to deliver the US
proposals via the actors who could speak with authority to Bashir and the NCP leadership. The ability to bridge the Washington/Khartoum divide was particularly important in the Abyei context, as the US-led efforts in New York and Addis had failed to bear any fruit by October 2010, and the issue threatened to escalate without a viable negotiation process. This bridging role for the UN was again relevant in a round of negotiations convened by the AUHIP in Khartoum in November, in which the US offer for sanctions relief was the most important carrot for the NCP. While the UN did not succeed in helping to broker a deal on the post-referendum issues at the time, Menkerios’s role in helping to keep the key players involved, and maintaining a sense of confidence in the process by all sides, appeared to play a positive role when it came to Bashir’s ultimate decision to support the referendum.

3. The UN’s Role in Building International and Regional Consensus

As described above, the close relationship amongst Haile Menkerios, Thabo Mbeki and Meles Zenawi helped build a more unified position within the African Union in the months leading up to the referendum. Menkerios himself recalls, “It was critical that the AU come together to show to the NCP that there was a soft landing, and that Khartoum could build towards a positive relationship with the South.” Quietly working behind the scenes to build that unified position was a key priority for the UN, and one that SRSG Menkerios accomplished in part via his standing in the organization and his closer relationship with Prime Minster Zenawi. One UN official argued, “Once Haile got Meles to come on board with the referendum, everyone else in the AU followed.”

The UN also helped build a sense of inevitability and unified international support for the referendum, which some interlocutors suggest may have helped push President Bashir to his decision to publicly accept the results. One of the key events in this context was the high-level meeting convened by the UN Secretary General in New York on 24 September 2010, during which 30 heads of state (including US President Obama), the AU Chairman, the AUHIP leadership, President Kiir, and a high-level Government of Sudan delegation pledged to respect the referendum outcome. On its face, the meeting was not hugely significant; in fact many interlocutors suggested that the inevitability of the referendum was given by then, though still a risky period for the country. Indeed, the communiqué of 24 September was careful to leave the possibility of a unity vote open, despite the widespread certainty that the South would vote to secede, in part to ensure total unanimity amongst the group. However, the united position of the African Union membership, and their willingness to make a public declaration committing themselves to a process that all knew would lead to independence, appeared to send a strong message to Khartoum and Juba.

There is some evidence that the high-level nature of the event, including attendance by a wide range of African heads of state, had an impact on the Government of Sudan’s public stance. Whereas previously the Government had been muted on the referendum process, referring generally to its commitment to the CPA process more generally, the final communiqué included an explicit commitment by the NCP and SPLM to “overcome the remaining political and technical challenges and to ensure the referenda are held on 9 January 2011.” As USIP notes, “with each public commitment, it became increasingly difficult [for the NCP] to back away from the pledge.” The high-level meeting was one such public commitment, and certainly added to the international pressure on the NCP to clear the path to 9 January.

Similarly, in October 2010, a group of Security Council ambassadors travelled to Sudan to underscore that the referendum date “was sacrosanct.” Unlike the US overtures regarding sanctions relief, or the mediation efforts of the AUHIP, the Security Council visit “came to be used mainly as a stick,” threatening further isolation if progress on the CPA was not achieved. There is little evidence, however, that this visit had a direct role in influencing Bashir’s decision to publicly accept the referendum, though it could well have played into the broader calculations about the likelihood of sanctions relief. In this sense, the Security Council may have bolstered the unanimity of purpose amongst the international community, possibly helping to “generate political momentum and engage [e] with key interlocutors in pursuit of a common strategy.”

4. What Strategies and Tactics Worked?

1. Protecting the Role of the Mediator

The overall UN strategy for Sudan as articulated by the Secretary-General in January 2010 treated the Darfur and the North/South conflicts as part of a comprehensive whole. This aligned with the findings of the AU Panel on Darfur (a precursor to the AUHIP, also led by Mbeki), which located the various conflicts in Sudan within a broader set of centre-periphery dynamics that had afflicted the whole country. As the above analysis has demonstrated, however, this holistic treatment of the interrelated issues might have worked at a policy-level, but in practice the UN needed an individual solely dedicated to the North/South mediation process. Indeed, looking at the decision to de-link the post-referendum issues and place them under the AUHIP, the creation of a separate UN Panel on the Referenda, and the significant authority delegated to the UNMIS leadership in southern Sudan to run the day-to-day operations of the Mission, what seemed to work best from a preventive diplomacy standpoint was to carve out and protect the specific UN diplomatic role from the other UN activities on the ground. Allowing SRSG Menkerios to act independently of both the AUHIP and the Panel on the Referenda appeared to give him the flexibility
to bring together different actors, afforded him the access to President Bashir, and allowed him to maintain impartiality through the crucial period.

That is not to say SRSG Menkerios’s engagement with the NCP was solely focused on the referendum. In fact he recalls, “When I talked to Bashir, I was talking about all of Sudan, and I was able to be very honest with him. I pointed out that the Government’s approach to the conflicts had put the whole continent against Khartoum. Getting through the CPA, and allowing the referendum, was one part of this more holistic approach that Bashir needed to take.”132 Rather than limit Menkerios, the actions taken to preserve his role as a mediator may well have freed him to have the wider-ranging, frank discussions with Bashir that would have more effectively influenced his decisions.

2. Embracing the Side-lines

SRSG Menkerios’s approach to the mediation was a quiet one, focused more on supporting the AUHIP than trying to create visible space for the UN. In this sense, “Haile worked as a de facto deputy to Mbeki”137 and described himself as part of the AUHIP team. But in a process as politically fraught as the North-South negotiations, and with the NCP instinctively wary of any process bearing a UN imprimatur, operating from the side-lines was almost certainly the most effective approach for any UN official involved. “If Haile [Menkerios] had been a flashy personality, trying to get credit for any of the negotiations, or putting any of his discussions in the press, the UN would have been nowhere in the talks,” noted a UN official involved.138

This quiet approach follows from Menkerios’s personality, and his tendency to embrace discreet engagement rather than wage public diplomacy. This does not mean the UN lacked relevance in the substance of the talks, or in helping to guide the strategic direction of the broader mediation effort. “We built ideas together, we came up with a common approach and then acted on it,” Menkerios recalls. Others involved in the process agree. “Haile was able to counsel Mbeki and his team, they counselled each other and reached common decisions,” one senior UN official describes.139 “Haile exercised enormous influence from the position he had created for himself, and he did it in a way that worked directly in concert with the AUHIP.”140

3. Leverage through Unity

“Engagement with the parties never would have worked by the UN alone,” Menkerios recalls. “It was only through the very close collaboration between the AU, IGAD, Meles and the UN, by building a common strategy amongst us, could we really engage the parties.”141 Taken separately, each organization had a piece of the puzzle: the AU held the power to recognize the CPA process and support both countries in the post-referendum period; Ethiopia was a key partner for Sudan, and was able to offer real guarantees to help both sides get through the referendum142; and the UN offered the hope of international standing for both sides, and a bridge to key stakeholders like the US. In isolation, these actors were important but probably insufficient by themselves to change the Khartoum’s calculations. Together, the above case study has argued, they played an important role in bringing Khartoum towards accepting the referendum.

4. The Power of Suggestion

“There is a power of diplomacy to suggest an outcome without promising it.”143 As the current UN Envoy for Sudan and South Sudan states, part of the diplomatic effort involved telling a positive narrative for the NCP's future, reassuring Khartoum that it could survive the secession process.144 However, some of the most important elements of the narrative were outside the UN’s control; core asks of the NCP regarding US sanctions relief, removal from the terrorism list, and even the ICC arrest warrant for Bashir, all fell beyond the UN’s ability to guarantee a result.

Instead, the mediators focused Bashir on the idea of the “soft landing” after the referendum, on what doors the NCP’s support to the referendum could open, versus what doors would be irrevocably shut if they opposed it. “I am not sure when Bashir really accepted the referendum,” Menkerios notes, “but we had a role in convincing him that the writing was on the wall . . . to suggest that he could win a friendly South Sudan after secession, that it was in his interests to do the right thing.”145

5. Technical Support as a Diplomatic Tool

While this study has been focused on political engagement at the highest level, the other activities of the UN played a direct supporting role for the prevention effort. In fact, the UN resources dedicated to Sudan during the referendum period were staggering: UNMIS and UNAMID combined constituted a $1.9 billion investment in peacekeeping;146 the UN Panel on the Referenda cost over $85 million;147 and an additional $58 million was spent on technical and logistical support to the vote itself.148 Across the world, governments resist unwanted ballots by throwing technical and logistical delays into the mix; and based on the description of the NCP’s alleged meddling in the process, the southern referendum was no different. However, the UN’s massive support package removed many of these potential obstacles and excuses, helping the diplomatic effort to ensure the referendum happened on time.149 As the above study has described, the ability of the mediators to assure both sides that they could get through the CPA process intact rested heavily on this technical and logistical support.

6. The Importance and Limits of Early Warning

Early warning is generally accepted as a key element of
any effective conflict prevention effort. In the case of the southern Sudan referendum, the UN was well-aware of the risks of violent conflict far in advance of the event itself. The Secretary-General issued five reports on Sudan in 2010 alone, all of which pointed to the risks associated with the referendum process, while internally the UN scenario planning had identified a wide range of scenarios in which all-out war between North and South was a plausible outcome.

Interestingly, the Secretary-General’s public reporting adjusted to the gradually diminishing risk as it became clearer that the NCP would accept the referendum outcome; in fact, by the time of his 31 December 2010 report, only days before the vote, the Secretary-General referred to the “unlikely event that the referendum leads to large-scale violence.”

On one hand, this evolving risk assessment could point to the success of a prevention effort: through 2010, the efforts of the UN and others helped to mitigate the risk and reduce the chance of a return to war around the referendum. On the other hand, it is possible that the UN played up the warnings early in 2010 in an effort to generate momentum on the CPA process, and that the more muted warnings later in 2010 were simply a more realistic assessment of the situation on the ground. As USIP points out, “It is difficult to distinguish overwarning [sic] from prevention success” in cases like the Sudan referendum.

This case study has attempted to provide evidence that risk was indeed mitigated, but the fact that early warning is often used as a political tool to generate international action may mean that some warnings are direr than reality.

There is a second implication inherent to these early warnings by the UN (and indeed this case study): by locating the risk around a specific event like the referendum, the analysis of preventive diplomacy could underplay the extent to which risk is merely shifted, rather than resolved. For example, in the months following the referendum, there were serious, if not widespread, clashes between the SAF and the SPLA along the disputed border area, resulting in the SAF’s takeover of the Heglig oil reserve and, temporarily, the disputed Abyei area. Five months after independence, clashes again took place between the SAF and the SPLA along the border area, and exactly upon the one-year anniversary of the secession vote, the SPLA command reported that the SAF had carried out air and ground attacks in South Sudan’s territory, killing more than 30 people and taking over a military base. Even today, with essentially none of the post-referendum arrangements resolved, large numbers of peacekeeping troops deployed to prevent violence in Abyei, and extremely poor relations between Juba and Khartoum, it is an open question whether the diplomatic effort of 2010 should be called a success, or a temporary suppression of tensions. How the risks are described, and what window is used for any assessment, will directly impact this question.

5. Conclusions: Sustaining the Prevention Effort

The southern Sudan referendum was the culmination of a massive international effort over more than six years to prevent a return to war. Yet in the months leading up to the referendum, there was a real risk that the peace process could have been derailed. In this, the decision-making of leaders in Juba and Khartoum was the most crucial: Would President Bashir accept the referendum process, and would President Kiir take the steps needed to pave the way to a peaceful vote in January 2011?

This study has made the case that external interventions played an important role in the decisions that led to a peaceful referendum in three principle ways: (1) by offering the parties viable assurances that the referendum would not pose an existential threat; (2) by separating the referendum from post-referendum negotiations that could have caused delays; and (3) by building a unified international and regional position in favour of a peaceful, timely referendum process. And while the UN was not always at the center of these activities, the case study has shown that the UN contributed to them in critical ways. UN logistical and technical support to the referendum (and indeed the elections that preceded it) also should not be underestimated, as it eliminated a range of potential risks around delays and meddling. These critical elements of the successful prevention effort in the case of Sudan should be considered when examining other prevention efforts.

But it is also important to consider briefly whether and how the UN prevention effort was sustained beyond the referendum itself. As the above section describes, North/South risks extended beyond the referendum, and continue to this day. This has required a continued UN peacekeeping presence—in the contested Abyei area—beyond the closure of UNMIS. And following the referendum, the UN increased its political support to the negotiation of post-referendum issues, appointing a special envoy based in Addis Ababa to work with the AU and the parties directly. Furthermore, while the establishment of UNMISS in South Sudan was largely dedicated to internal stability, the mission there has continued to coordinate with the UN envoy and others to help anticipate and address North/South risks. As such, the UN has built a significant on-the-ground presence to maintain its conflict prevention role over the past seven years.

Unfortunately, these efforts have not resulted in meaningful progress on the talks themselves—nearly every post-referendum issue remains in roughly the same position it was six years ago—but they have helped maintain a forum where the parties can talk to each other. The absence of serious tensions and/or violence across the North/South border in recent years is evidence that the preventive diplomatic effort in 2010/11 has been sustained, even if many of the underlying risk factors remain.

However, hanging over all claims of success about the referendum is the brutal civil war that engulfed South Sudan
less than three years after independence. The shortcomings of the North-South negotiation process likely played a role in this, driving economic and security uncertainties in the crucial early period of South Sudan’s existence. But North-South issues are only one limited aspect of South Sudan’s civil war, the bulk of which concerns the southerners themselves, fuelled by longstanding inter-communal tensions and the failure of Juba to deliver meaningful development and growth to all populations. Indeed, in many ways, Juba has recapitulated the same centre-periphery power dynamics that plagued Khartoum for decades before independence, all but guaranteeing that South Sudan will face violent conflict for years to come.

In fact, the way in which President Kiir prepared for the referendum may have contributed directly to the 2013 civil war. By paying off a huge number of SPLA generals to achieve a unified army ahead of the referendum, Kiir may well have set expectations at an unrealistically high level. In the two years following the referendum, high levels of corruption within the Government meant that many of the key SPLA elements were excluded from power, and ready to foment violent conflict to secure their interests. In some respects at least, the South’s rush to the referendum planted the seeds for the war that followed.

It would be unrealistic to hold the 2010 preventive diplomacy effort directly accountable for South Sudan’s civil war—the CPA never seriously contemplated how the southern Sudanese would build (or destroy) their own country, only that they should be given the opportunity to decide their own fate without a return to war. Perhaps as the UN considers how better to connect its conflict prevention work with longer-term sustaining peace, there may well be scope to reconsider how such peace agreements are developed and supported in the future.198

This case study does not take such a long view. Instead, it has shown that, facing a real risk of war leaders in both the Khartoum and Juba took the decision to take a peaceful path. And more than seven years later, despite disagreements over many of the fundamental issues within the CPA, and despite the clashes along the border, neither side has shown a willingness to return to war. This, more than anything, is strong evidence that the joint preventive diplomatic effort in 2010 did what it was asked to do.
Endnotes

Cover Image: South Sudan Prepares for Its Independence. UN Photo/ Paul Banks.

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1 "The Comprehensive Peace Agreement between The Government of The Republic of The Sudan and The Sudan People’s Liberation Movement/Sudan People’s Liberation Army,” 9 January 2005 (chapeau reads “recognizes the right of the people of Southern Sudan to self-determination and seeks to make unity attractive during the Interim Period”).

2 The CPA in fact provided for a separate referendum on the status of Abyei, and through 2010 there was some discussion as to whether that might take place.


5 S/2010/31 (19 January 2010) para 89 (warning that a return to violent conflict was a “very real possibility”).


7 This study does not consider the longer-term risks, or the conditions that led to the 2013 civil war in South Sudan. However, in the conclusions, it does provide some analysis of how the short-term interventions interacted with the longer-term processes that continue to this day.

8 NB, there were a range of other risks around the referendum period, including South-South violence, conflict between Southern Kordofan/Blue Nile and Khartoum, and the ongoing crisis in Darfur (which had links to the southern Sudan issue and the CPA). However, this study will focus on the immediate risk of North-South violence in the lead up to the referendum.

9 See, e.g., “South Sudan: Are They Headed for a Crash?” The Economist, 23 September 2010, available at www.economist.com/node/17103885 (“it is not certain that the Sudanese government in Khartoum will let the referendum proceed as planned. Even if it does, the outcome will be extremely messy”).


11 Interview with UN official, 16 November, 2017.


13 “Sudan: Defining the North-South Border,” International Crisis Group Policy Briefing, 2 September 2010 (“For example, there are unconfirmed reports of an SAF build-up along the borders of Upper Nile state, including in White Nile state north of the contested border; western Blue Nile state and near Megenis”).

14 For example, there was credible evidence that an uprising by a southern militia leader, George Athor, was directly supported by northern elements in an attempt to destabilize the South. See, “United Nations Preventive Diplomacy and the Self-Determination of Southern Sudan,” DPA Internal Paper, 15 April 2011 [on file with author]; see also, “Uncertain Future,” Small Arms Survey, April 2010 (“There are widespread allegations of arms and ammunition being supplied within Southern Sudan by elements of the NCP/SAF in an effort to destabilize the South”).


16 For example, in July 2010, following clashes and demonstrations in Abyei, there were reports that military forces were ready to act to secure the area. See, IRIN, Sudan: Clashes and demos in Abyei, 7 July 2010, available at: http://www.refworld.org/docid/4c3addbe81a.html [accessed 12 January 2018].


18 The issue of popular consultations for Blue Nile and Southern Kordofan States, while important, were not listed by interlocutors as one that was likely at the time to derail the referendum.


“Post CPA Strategic Assessment for Abyei,” November 2010 [internal DPKO document on file with author] (“the disputed Abyei Area has been the most challenging issue in the CPA framework and looks to be one of the most volatile through the CPA period”).


Interview with UN official, New York, October 2017.


Former US Envoy to Sudan and South Sudan, Princeton Lyman, has argued that NCP fears of further isolation and potential economic ruin were key factors in NCP concerns about the referendum. See, Lyman, Princeton, Negotiating Peace in Sudan, Cairo Review, Spring 2011.


There is even an unconfirmed report that Nafie proposed to the Shura Council on 2 December 2010 that the NCP declare war on the SPLM, saying that a new war was inevitable. “Divisions in Sudan’s Ruling Party and the Threat to the Country’s Future Stability,” International Crisis Group Report, 4 May 2011, page 16. See also, Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (noting that Nafie Ali Nafie was one of the hardliners influencing NCP positions away from constructive approaches to the referendum and post-referendum negotiations).

Interview with UN official, New York, 4 October 2017 (“Nafie was ready to do whatever it took to stop the referendum, and he had hardline NCP allies helping him”).


Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017 (“debt relief was a major issue for the NCP, and they were unwilling to accept any scenario where the South did not take on at least some of the debt, unless the international community was serious about taking it on themselves”).


In the CPA negotiations, the US had held out the promise of ending the sanctions regime and eventually providing debt relief to Khartoum, none of which had happened during the interim period. One of the reasons for this was the conflict in Darfur, which was cited as a continuing example of Khartoum’s bad faith.


Interview with UN official, New York, 4 October 2017 (“Bashir’s approach was to hold out, to see what he could get by keeping everything on the table while the referendum still wasn’t certain”); See also, Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (“there were hardline elements within the NCP who wished to hold the referendum hostage, delay it so they could extract concessions on Darfur, the ICC and sanctions”).


There is a difference of views within the UN and expert community concerning the extent to which the ICC played a role in Bashir’s calculations. On the one hand, many analysts have pointed to the ICC as part of the broader set of issues isolating Sudan, including designation as state sponsor of terrorism, sanctions, and lack of diplomatic relations with the US and others. Ending the ICC case could be seen in this context as part of the gradual acceptance of Khartoum within the international community. Other experts, however, claim that Bashir himself was much less concerned with the ICC, confident that his allies within the AU would protect him, and more focused on the economic incentives on offer.

Southern Sudan Assessment, DPKO Internal Paper, January 2010, [on file with author] (“If the elections do take place, the NCP will have achieved all it needs in the CPA, and efforts to stall or prevent the referendum and/or popular consultations could be intensified”). See also, Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (noting that the elections consolidated NCP control in the North, and gave Bashir a key win within the CPA framework).
Interview with UN official, New York, 6 October, 2017 (“Don’t underestimate the personal pain of Bashir at losing territory”).
Interview with former US Special Envoy to Sudan and South Sudan, Ambassador Princeton Lyman, January 2018 (noting the lack of preparatory steps by Khartoum with its population ahead of the referendum).
According to some experts, even former South African President Thabo Mbeki, appointed by the African Union Peace and Security Council to head the African Union High Level Implementation Panel tasked with resolving post-referendum arrangements, was initially perceived as having a preference for unity. Interview with UN official, New York, October 2017.
Libya was also sporadically in favor of unity, but this appeared to depend more on the whims of Ghaddafi than any fixed national position.
NB: Chad also vociferously opposed the secession of South Sudan, but was less important in terms of the referendum process.
According to some experts, even former South African President Thabo Mbeki, appointed by the African Union Peace and Security Council to head the African Union High Level Implementation Panel tasked with resolving post-referendum arrangements, was initially perceived as having a preference for unity. Interview with UN official, New York, October 2017.
Interview with former SRSG UNMIS, 16 November, 2017 (“The southerners never believed until 4 January that the North would allow the referendum. They were preparing for a show down if the North tried to stop them”).
Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017.
“Negotiating Sudan’s North-South Future,” International Crisis Group Update Briefing, 23 November 2010. See also, Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (noting that the delinking of the post-referendum negotiations helped clear the way for the referendum).
72 Interview with UN official, New York, 4 October 2017 (“delinking the post-referendum issues was critical, it allowed the referendum to move forward”).
73 Interview with UN official, New York, 4 October 2017. Many interlocutors referred to the phrase “soft landing” which was also used by the Secretary-General at the time. While there is no precise definition for it, most appeared to think it meant that the referendum would not spell disaster for the NCP, that they would not be further isolated, that their economic future was somewhat assured, and that key post-referendum issues would not be resolved to their extreme detriment.
74 President Mbeki’s speeches on western interventions in Africa are well known. See also, “United Nations Preventive Diplomacy and the Self-Determination of Southern Sudan,” DPA Internal Paper, 15 April 2011 [on file with author] (“Mbeki’s gradual transformation from strongly opposing any further subdivision of Africa to a redefined Pan-Africanism that allowed for the division of the Sudanese state, helped to build the confidence of the Southern Sudanese regarding the peace negotiations”).
75 Interview with UN official, New York, 4 October 2017; interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017.
76 Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (noting that there was nothing there at the time in the mandate of UNMIS that would go beyond the referendum date, so it became clear by 2009 that there would be a major challenge for the UN in supporting the transition. This was one of the reasons the AUHIP picked up the post-referendum arrangements.)
78 Interview with former SRSG UNMIS, 16 November, 2017. See also Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (stating that AU and UN mediators met frequently with President Bashir and NCP leaders to discuss the importance of a timely referendum).
79 E.g. former US Special Envoy Princeton Lyman indicated that by the 2010 elections process it was clear to all parties that Southern Sudan would vote for independence, and that it was even fairly clear to all involved that the death of John Garang in 2005 heralded the end of a realistic chance at unity. Interview in January 2018.
80 Several interlocutors underscored the Government’s ability to divide up difficult issues and deal with them in ways that benefited Khartoum. As evidence they cited the Government’s keeping the Darfur process completely separate from the CPA, resisting international efforts to put a UN-led mission in El Fasher, and unwillingness to accommodate even very strong pressure from the US and others when it came to North-South talks. Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017; interview with former Senior Adviser UNMIS, New York, 4 October 2017. See also, “Negotiating Sudan’s North-South Future,” International Crisis Group Update Briefing, 23 November 2010.
81 Interview with former SRSG UNMIS, 16 November, 2017.
82 Obviously, this case study would have benefited from direct discussions with President Bashir’s inner circle. This proved impossible for many reasons, including UN restrictions on contact with ICC indictees.
83 Interview with UN official, October 2017.
88 Interview with former US Special Envoy to Sudan and South Sudan, Ambassador Princeton Lyman, January 2018.
89 Author’s notes from meeting with official from Sudanese Permanent Mission to the UN, New York, September 2010 (“we know the US deal isn’t serious, they put conditions on Darfur that they know we will never accept”).
90 Interview with UN official, New York, 4 October 2017.
91 Interview with former SRSG UNMIS, 16 November, 2017 (“The US sent signals to the NCP that if they did the right thing on the referendum, they would get positive moves from Washington…this helped move the NCP in the right direction, along with our own [UN and AUHIP’s] engagement”).
92 Interviews with UN officials, October 2017.

Interviews with UN officials, former members of the AUHIP, and members of the diplomatic corps all confirmed the central importance of these three actors. Some interlocutors also pointed to the centrality of the US, but this is covered less in terms of personal persuasion than the offer that was placed on the table (see previous section).


NB: the AUHIP conducted the bulk of its negotiations with the parties in Ethiopia.

Former US Special Envoy to Sudan and South Sudan, Princeton Lyman, underscored the important role President Mbeki played in bringing together a unified AU position on the referendum. Interview January 2018.

Interview with UN official, New York, 4 October 2017. This point was echoed by a former member of the AUHIP.

Interview 4 October 2017.

This view is supported by former US Special Envoy to Sudan and South Sudan, Princeton Lyman, who stated that Menkerios’ access to President Bashir “was important…Bashir understood and respected his background.” Interview January 2018.

Interviews with UN officials, October and November 2017.

There were no formal mechanisms or processes established for these meetings, and several interlocutors pointed to the flexibility this offered as a positive factor.

Interview with former SRSG UNMIS, 16 November, 2017.

Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017.

Interview with former SRSG UNMIS, 16 November, 2017 (“It seemed that our arguments with Bashir helped, at least in getting him closer to making his acceptance public”). This point was echoed in an interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017.

A former member of the AUHIP stressed that President Mbeki frequently engaged the AU Peace and Security Council (four briefings in 2010) and added time on all of his visits to Addis for bilateral engagements with AU members to help build a unified stance on Sudan.


Interview with Director of UN Electoral Assistance Division, 20 November 2017. Former US Special Envoy to Sudan and South Sudan, Princeton Lyman, held a similar view, noting that SRSG Menkerios’ decision to quietly print the referendum ballots despite ongoing logistical hurdles within the Referendum Commission, was crucial in the timely conduct of the process. Interview January 2018.

For example, UNMIS directly supported the process by which General Athor and the SPLM reached a ceasefire agreement during a time when Athor’s rebellion was threatening stability and cohesion in southern Sudan. Similarly, UNMIS and UNAMID worked together to encourage the SPLM to stop support to the Darfur rebels in the lead up to the referendum. See, e.g., “United Nations Preventive Diplomacy and the Self-Determination of Southern Sudan,” DPA Internal Paper, 15 April 2011 [on file with author].


Interview with former SRSG UNMIS, 16 November, 2017 (“I think it helped, our direct engagement with Bashir helped get him closer to the referendum”); see also, interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017. Former US Special Envoy to Sudan and South Sudan, Princeton Lyman, held a similar view. Interview January 2018.

The term “referenda” here refers to the fact that there were originally meant to be two referenda: one for southern Sudan and another for Abyei, both of which were meant to take place simultaneously. The Abyei referendum was eventually postponed indefinitely, however.


Interview with former SRSG UNMIS, 16 November, 2017.

Interview with former Senior Adviser UNMIS, New York, 4 October 2017 see also, Interview with Director of UN Electoral Assistance Division, 20 November 2017 (“What was really going on was that Haile didn’t want to spend all his political capital talking about issues like intimidation, he wanted to keep his good offices work saved, powder dry for discussions with Bashir on divorce arrangements”).

Interview with former Senior Adviser UNMIS, New York, 4 October 2017 (“Menkerios first proposed the de-linking of the post-referendum issues”); see also, “United Nations Preventive Diplomacy and the Self-Determination of Southern Sudan,” DPA Internal Paper, 15 April 2011 [on file with author] (“Notably, Menkerios’ efforts assisted in delinking unimplemented
aspects of the CPA, such as border demarcation, with the holding of the referendum in order to help keep the referendum on track, given the likelihood that conflict would erupt if the referendum were not held on time”.

120 Interview with former SRSG UNMIS, 16 November, 2017. See also, Interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (underscoring the extremely close relationship between Menkerios and Mbeki, and the ability of them to jointly develop strategies on the talks).

121 Interview with former SRSG UNMIS, 16 November, 2017.

122 Interview with former Senior Adviser UNMIS, New York, 4 October 2017.


125 Interview with former SRSG UNMIS, 16 November, 2017.

126 Interview with former Senior Adviser UNMIS, New York, 4 October 2017.


130 And as noted above, this meeting coincided with a diplomatic effort by the US to more seriously put an economic package on the table.


133 Preventive Diplomacy: Delivering Results, Report of the Secretary-General 2011.


135 While UNMIS was headquartered in Khartoum, day-to-day operations in southern Sudan by the UNMIS Regional Coordinator.

136 Interview with former SRSG UNMIS, 16 November, 2017.

137 Interview with former Senior Adviser UNMIS, New York, 4 October 2017.

138 [Interview on background].

139 Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017.

140 Interview with former Senior Adviser UNMIS, New York, 4 October 2017. See also, interview with Senior Political Adviser to African Union High-Level Implementation Panel, 21 November 2017 (stressing the strategic importance SRSG Menkerios played in the AUHIP-led mediation).

141 Interview with former SRSG UNMIS, 16 November, 2017.

142 Ethiopia also offered troops to help resolve the Abyei crisis, which proved to be essential in quelling tensions there following the referendum.

143 Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017.

144 Interview with former SRSG UNMIS, 16 November, 2017 (“Our message to the Bashir was that if he embraced the referendum there was the potential for a soft landing, that he could get the kind of relationship with the South that would be beneficial to both sides”).

145 Interview with former SRSG UNMIS, 16 November, 2017.

146 A/62/540; A/59/768.


149 Interview with Director of UN Electoral Assistance Division, 20 November 2017; see also, S/2011/239 (calling the technical and logistical support to the referendum “indispensable”).


151 Scenario Planning for Southern Sudan [internal DPKO document on file with author]. See also, S/2010/31 (19 January 2010) para 89 (warning that a return to violent conflict was a “very real possibility”); S/2010/681 (31 December 2010), para 78.

152 S/2010/681 (31 December 2010), para 78.


6, Iss. 3, 2012.
157 Interview with UN Special Envoy for Sudan and South Sudan, New York, 6 October, 2017 (noting that all post-referendum arrangements remain under negotiation, with little prospect for major progress today); see also, “Learning From Sudan’s 2011 Referendum,” US Institute of Peace, Special Report, March 2012 available at https://www.usip.org/sites/default/files/resources/SR303_0.pdf
158 The Policy Paper produced for this project suggests some approaches along these lines.