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## **Towards effective federalism in Sudan during the Interim Period**

**Lucy Cavendish College, Cambridge, UK, 9-12 September 2007**

This meeting, organised and funded jointly by Concordis International and the Cambridge Carnegie Project, brought together 12 Sudanese legal experts and practitioners to work on the topic of federalism in Sudan during the Interim Period. The participants came from across Sudan, representing a range of key Sudanese political and geographical constituencies, and were assisted by a number of international constitutional and power-sharing experts. Over the course of the two-day workshop, presentations were made by Sudanese experts on some of the key areas of tension and ambiguity within the various power-sharing arrangements, including relationships between the North and South, tense areas such as the West, East, Abyei and Southern Kordofan, and key issues such as mechanisms to implement constitutional agreements. Each presentation was followed by comments from an international constitutional expert, leading into a plenary discussion in which challenges and problems were analysed and discussed.



Regarding the Comprehensive Peace Agreement (CPA), it was generally felt that while it was not perfect, current problems related more to implementation than to constitutional design. Participants agreed that these problems, ranging from the work of the Border Commission to the issue of diplomatic visits, need to be addressed otherwise they could provoke the CPA's collapse, which could in turn end the fragile peace and cause a resumption of war in the South. The participants raised a number of related issues which they viewed as central to the problems with the CPA: ongoing political mistrust and lack of linkages between the NCP and SPLM; the lack of understanding of the CPA by citizens,

politicians and bureaucrats; the lack of transparency in the institutions established under the CPA; and the lack of confidence in the various commissions.

The relation between the CPA, the Darfur Peace Accord and the Eastern Sudan Peace Agreement was considered. Participants agreed that there were constitutional gaps and inadequacies in the relationships, partly resulting from the way in which the agreements were negotiated. Questions were raised about the constitutional standing of the DPA. It was unclear whether both the DPA and ESPA were effective peace agreements or merely means of furthering government control. Participants highlighted a number of concerns common to the DPA and ESPA: the Western and Eastern presidential assistants have no ability to impact government policy; the development commissions in the East and West are insufficiently empowered; and neither agreement addresses localised causes of conflict.

The special status of states such as Khartoum and Abyei was raised and it was noted that the most important ingredient of success is political will to agree mechanisms to resolve border issues and then to follow through on the decision. Regarding the different mechanisms for settling constitutional disagreements, two key types of dispute were highlighted that need to be resolved during the Interim Period: firstly over the implementation of the various agreements, and secondly over clashing competencies arising as the agreements are carried out. Effectively resolving these disputes requires a political response as much as a judicial one. It was felt that bodies such as the Constitutional Review Commission, the Assessment and Evaluation Commission and Joint National Transition Team, which are all called for in the CPA, were not playing a sufficient role in resolving clashes and therefore needed to be used more actively to prevent and address constitutional disputes. It was also argued that the Constitutional Court is not sufficiently independent.

Overall, participants agreed that the current potential weaknesses and contradictions of the Sudanese constitutions should be uncovered, analysed and actively addressed. They felt that this workshop had enabled them to engage with and make a positive contribution to this crucial subject, devising creative solutions to enable the interim power-sharing system to work more effectively.

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