SUDAN BRIEF

The paradox of federalism and decentralisation in South Sudan: An instrument and an obstacle for peace

AUTHOR

Lovise Aalen,
Chr. Michelsen Institute

A power sharing agreement and the inauguration of a new government in South Sudan has been put to a halt. Disagreement on the number of states and local self-government, security issues and the unifying of a national army are contested issues. Strife about how to share the power between the local and central level through federalism and decentralisation remains at the core of the controversies. Sorting out the relationship between central and local levels of government is a precondition for lasting peace. Drawing on experiences from African post-war states, this CM brief identifies what it will take for federalism and decentralisation to be implemented and functioning in South Sudan.

CMI CHR. MICHELSEN INSTITUTE

This brief is based on Aalen's book chapter 'African Decentralisation as Power Calculation, and its Relevance for South Sudan' in Luka Biong Deng Kuol and Sarah Logan (eds) 2019 *The Struggle for South Sudan: Challenges of Security and State Formation* London: I.B. Tauris.

Hijacking the federalism agenda

After South Sudan got its independence in 2011, it only took two years before the world's newest nation again was at war. In December 2013, violence erupted in the capital Juba and spread across the country. The conflict was spurred by competition for power between the two leaders President Salva Kiir (Sudan People's Liberation Movement (SPLM) and the former vice President Riek Machar (SPLM-IO, in opposition), but soon turned increasingly ethnic, as the two warring leaders mobilised their own ethnic constituencies – the Dinka dominated groups under Kiir, and predominantly Nuer fighters under Machar.

The two leaders also had different approaches to how South Sudan should be governed. At independence in 2011, South Sudan had 10 states. The SPLM opposed a subdivision of the country into a federal system from the start, arguing that it would undermine national unity. They wanted to keep the current state structures (Johnson 2014). The SPLM-IO favoured a federal solution and argued for a subdivision into 21 states. After signing the 2015 peace deal, however, president Salva Kiir hijacked the federalism agenda and increased the number of states to 28, which he later expanded to 32 states. The opposition interpreted the move as a bid to contain the territorial control of the SPLM-IO and its Nuer constituency.

Why federalism should be a part of the solution

Currently, neither side in the conflict agrees on how many states that should exist and where the boundaries should be drawn. Administrative boundaries and divisions have become crucial instruments in the struggle for national power. This power struggle does not, however, disqualify federalism and decentralisation as a part of the solution to South Sudan's problems.

Administrative boundaries and divisions have become crucial instruments in the struggle for national power.

On the contrary, it could be argued that these two institutional measures are preconditions for managing the country peacefully in the future. A **federation** is characterised by a constitutionally guaranteed devolution of power from the centre to regional units or states and representation of these in the central government. This creates a shared sovereignty between federal and subnational entities that is not found in unitary states. **Decentralisation** can be defined as transfer of power, responsibilities and finance from central to subnational levels of government, such as the provincial or local level. The transfer of power does not have to be constitutionally defined and protected, and the subnational units do not necessarily have their own representation at the national level, as in a federal system.

"Administrative boundaries and divisions have become crucial instruments in the struggle for national power"

Both federalism and decentralisation allow a broader range of groups to participate in decision-making processes and thus to invest in the political system, rather than to undermine it. Effective federal systems can also impede abuse of power at the centre by giving constitutional power to regions. At the same time, decentralisation promises to bring decision-making power closer to ordinary citizens. This may increase the level of political participation and lead to more responsive government. Most studies of decentralisation reforms in Africa assume that decentralisation, if done properly|, will increase public participation in decision making and enhance the downward accountability of government officials, thereby leading to a deepening of democracy (Blair 2000). Bringing government closer to the people will also ensure that social services and public decisions are better matched to local needs, and enhance the efficiency and transparency in the use of government resources (Connerley, Eaton and Smoke 2010).

As a country ravaged by internal strife and undemocratic governance, South Sudan needs institutional solutions that can provide conflict resolution and a deepening of democracy. But what are the prospects of decentralisation and federalism in South Sudan? And can these measures bring positive change in a context like South Sudan?

As a country ravaged by internal strife and

undemocratic governance, South Sudan needs institutional solutions that can provide conflict resolution and a deepening of democracy.

The prospects of federalism and decentralization

While the South Sudanese government, led by the SPLM, was initially negative to federalism, it has expressed support for decentralisation since the end of the second civil war in 2005. The Interim Constitution of 2005 prescribes a decentralised system with three levels of government: national, state and local. Local government has three layers: county, payam and boma (a village or ward). County governments are responsible for tax collection, among other things. At the payam level, traditional leaders play a role in the judicial system, applying customary law. In bomas, authority is divided between the boma administrator (appointed by the SPLM) and the traditional chief (appointed by a council of elders). The Local Government Act of 2009 permitted traditional authorities to be integrated into local councils, continuing a practice established under colonial indirect rule.

Yet, decentralisation has remained largely unimplemented in South Sudan. The Transitional Constitution enacted in 2011 reversed some of the decentralisation provisions in the Interim Constitution, creating a more centralised state. In most of the country, county legislative assemblies do not exist, county commissioners are largely appointed from the centre, borders between the local administrations are not demarcated, and it is not clear how local government can raise revenues or receive transfers from the centre to provide local service delivery (De Simone, 2013).

> **"It seems highly unlikely that South Sudan will implement a complete system of local governance any time soon"**

The return to armed conflict in December 2013 has made the chances of the South Sudanese government opting for a genuinely decentralised system of governance even slimmer. Devolution of power, particularly through a federal system, has become increasingly controversial, illustrated by the government and the SPLM-IO's competing claims and overbidding of the number of states. It seems highly unlikely that South Sudan will implement a complete system of local governance any time soon. The SPLM is seeking regime survival, and is inclined to consolidate central power and

national territorial control before decentralisation is carried out.

It seems highly unlikely that South Sudan will implement a complete system of local governance any time soon.

Still, lessons from other decentralising or federalising post-conflict regimes in Africa can help us identify which preconditions that have to be in place in order to decentralise/federalise. These are territorial control and monopoly of violence, a legacy of effective wartime structures to administer the local population, and a central party organisation able to and interested in using local administration to mobilise and consolidate support for the national regime.

PREREQUISITE 1: Territorial control and monopoly of violence

The current political regime in South Sudan came out of a larger political settlement in the wider Sudan, the Comprehensive Peace Agreement of 2005 (CPA). Although the SPLM took control of the Southern Sudanese government in 2005, it did not have full territorial control. Competing militias and factions of the SPLM challenged the central power in Juba. The SPLM had to gain control of these militias and gradually incorporate them into the national army.

The Southern Sudan Defence Forces (SSDF) were integrated into the national army in 2006. It was the largest of the militias, almost as big as the SPLM itself (Sørbø, 2014). Unlike in Ethiopia where the ruling party was the sole winner and could use local elections as a tool to penetrate the national territory and consolidate its power, the political settlement in South Sudan is not the outcome of one side's victory. Rather, it is similar to that of post-civil-war Mozambique, where the ruling FRELIMO was challenged by RENAMO in certain parts of the country. This led FRELIMO to see empowerment of local authorities in RENAMO-dominated areas as a threat. Decentralisation, including local elections, was therefore never fully implemented in Mozambique.

Despite the apparent success of militia integration, old fault-lines, often ethnically based, still exist within the new national army in South Sudan. Combined with low discipline and informal chains of command, the arrangement has allowed previous militia leaders to mobilise their old power bases in times of crisis. These power bases reach down to the local level, with significant militarisation of civilians and links to local power structures and agendas. This enables local officials to run policies independently from the centre (de Waal, 2014).

Since the SPLM lacks nationwide territorial control and does not hold a monopoly over violence, the regime would most likely perceive genuine, country-wide decentralisation as a threat to its hold on power. After all, holding local elections in areas outside SPLM control may result in resources and power being extended to local leaders outside the SPLM, potentially strengthening the opposition's base and threatening the SPLM regime's survival.

PREREQUISITE 2:
Civilian wartime structures

Post-conflict regimes that have their roots in victorious insurgencies can use decentralisation to consolidate and expand their political power by building upon their pre-existing wartime structures of command and control. The Tigray People's Liberation Front (TPLF) in Ethiopia built administration systems for the civilian population in areas they controlled during the struggle against the Derg regime (Young, 1997). This move ensured that the TPLF already had a civilian support base in the north and had gained invaluable experience in administering local communities when the party took power in Addis Ababa in 1991. TPLF used its local wartime structures as a model for creating new local administrations nationally, and never perceived decentralisation as a risk.

In South Sudan, there were also attempts to establish local governments during the civil war (Rolandsen, 2005). After the TPLF assumed power in Ethiopia in 1991, the Sudan People's Liberation Army (SPLA), the SPLM's military wing, lost vital external support from Ethiopia. Consequently, the SPLM tried to create local civilian administrations, particularly in non-Dinka areas, to nurture support for the insurgency (Johnson, 2003). Pressure from NGOs and the international community also induced SPLM to establish political structures and cede to local peace and reconciliation initiatives.

Yet contrary to the case of the TPLF in Ethiopia, the SPLM/A does not have the efficient wartime administrative structure needed to facilitate decentralisation. One factor that has hindered the development of such a structure is the failure to give any real power to traditional leaders when the Civil Authority of South Sudan was established in 1996. The traditional leaders were incorporated into the SPLM administrations on paper, but in reality had no real authority.

Another factor that contributed to the SPLM lacking efficient wartime administration structures was that the SPLA depended on NGOs as the main service providers in SPLA-controlled areas and relied on neighbouring states and the UNHCR to accept and take care of displaced populations.

This external support meant that SPLA civilian administration was not essential and did not develop. The historically strong position of NGOs as service providers in South Sudan has undermined the legitimacy and capacity development of local governments and, consequently, hampered decentralisation.

The historically strong position of NGOs as service providers in South Sudan has undermined the legitimacy and capacity development of local governments and, consequently, hampered decentralisation.

PREREQUISITE 3:
A cohesive dominant party

Studies of decentralisation patterns in Africa show that dominant party states are a particularly good starting point for decentralisation reforms. In such states, division between party organisation and state administration is often blurred. Establishing local governments enables the party to recruit and contain opposition in local areas. This allows the ruling party to extend the party-state to the local level, increase patronage opportunities and deepen links between the party and citizens. Decentralisation reforms favour the national dominant party and are likely to be sustained. Both the ANC in South Africa and the Ethiopian People's Revolutionary Democratic Front have efficiently used local government structures to extend its power base and ha actively exploited local elections to challenge or remove local remnants of the old regime.

Decentralisation reforms favour the national dominant party and are likely to be sustained.

The SPLM has the potential to become a dominant ruling party, both due to its historical legacy as the liberation party and because the opposition is divided. As in other dominant party states, the boundaries between the SPLM and the state are blurred and the SPLM is willing and able to use state resources to sustain its power. In practice, however, the SPLM has not utilised the state to build a stable party apparatus (Kuol and Logan 2019). With only two national conventions, in 1994 and 2008, internal party democracy is minimal. Compared to the ANC or the EPRDF, the SPLM does not have a strong party organisation. Instead of using state resources and public funds to build such an organisation, officials have exploited party positions for personal enrichment and to maintain personal patronage networks.

During the military struggle, looting food and other kinds of aid was a military strategy. The Sudanese government used aid and resources as part of a divide-and-rule strategy to control the

southern insurgents. This way of managing conflict continued into the CPA years (2005-2011) when both the National Congress Party in the north and the SPLM in the south generously handed out money to army commanders and local political leaders with armed constituencies. But it has turned out to be a treacherous strategy. Instead of building up local party and administrative structures, the patronage system has resulted in national leaders facing 'rent-seeking rebellions' where the army commanders and local political leaders seek an even larger share of government resources (de Waal, 2014).

POLICY RECOMMENDATIONS:
A new kind of leadership

In concluding the edited volume The struggle for South Sudan, Kuol and Logan highlight how central leadership is in addressing the current crisis in South Sudan. The two warring parties, SPLM and SPLM-IO, both have leaders who promote their own agenda of power and resource accumulation. Apart from their personal agenda, Kiir and Machar have neither a political programme, ideology nor vision for a peaceful South Sudan.

> **"Without the development of responsible, institutional national leadership, it is unlikely that federalism or decentralisation will deliver on its promises in South Sudan"**

Without the development of responsible, institutional national leadership, it is unlikely that federalism or decentralisation will deliver on its promises in South Sudan. The international community, which so far have been focusing on power sharing among the established elites, should look for opportunities of supporting a new kind of leadership. In this way, they can indirectly assist in establishing efficient state control, a functioning civilian administration, and a cohesive party organisation, all prerequisites for a working decentralised or federalised system.

References

Blair, H. (2000) Participation and accountability at the periphery: Democratic local governance in six countries. *World Development 28*(1): 21-39.

Branch, A. & Z.C. Mampilly (2005) Winning the war, but losing the peace? The dilemma of SPLM/A civil administration and the tasks ahead. *The Journal of Modern African Studies, 43*(1): 1-20.

Connerley, E., K. Eaton & P. Smoke (eds.) (2010) *Making decentralisation work: Democracy, development, and security.* Boulder, CO: Lynne Rienner.

De Simone, S. (2013) Post-conflict decentralisation: dynamics of land and power in Unity State – South Sudan. *UNISCI Discussion Papers*, Issue 33: 35-56.

de Waal, A. (2014) When kleptocracy becomes insolvent: brute causes of the civil war in South Sudan. *African Affairs,* 113(452): 347-369.

Johnson, D. (2003) *The root causes of Sudan's civil wars.* Oxford, United Kingdom: James Currey.

Johnson, D. (2014) Federalism in the history of South Sudanese political thought. *Rift Valley Institute Research Paper.*

Kuol, Luka Biong Deng and Sarah Logan (eds) (2019) *The Struggle for South Sudan: Challenges of Security and State Formation* London: I.B. Tauris

Local Government Act of 2009. Laws of Southern Sudan.

Rolandsen, Ø. (2005) *Guerrilla government: Political changes in South Sudan during the 1990s.* Uppsala, Sweden: Nordic Africa Institute.

Rolandsen, Ø. (2015) Another civil war in South Sudan; the failure of a Guerrilla Government? *Journal of Eastern African Studies*, 9(1): 163-174.

Schedler, A. (2006) *Electoral authoritarianism: the dynamics of unfree competition.* Boulder, CO: Lynne Rienner.

Schomerus, M. & T. Allen (2010) *Southern Sudan at odds with itself: Dynamics of conflict and predicaments for peace.* London, United Kingdom: Development Studies Institute, London School of Economics and Political Science.

Sørbø, G. (2014) *Return to war in South Sudan. NOREF Policy Brief.*

Young, J. (1997) *Peasant revolution in Ethiopia – The Tigray People's Liberation Front, 1975-1991.* Cambridge, United Kingdom: Cambridge University Press.