

The Principles of Religious Liberality and Self Determination in Sudan's Search for Political Stability

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Abstract: Religious plurality and self determination are 2 major principles central to the entrenchment of political stability in the Sudan. These are well entrenched in the Sudanese Constitution of 1998, the IGAD Declaration of principles of May 1994, the Asmara Declaration of June 1995 and the Sudan Peace Agreement of April 1998. The import of these constitutional provisions and implication for self-determination and religious liberality in Sudan form the basis of discussion in this study. It concludes that political stability may be a matter of foregone conclusion if the dictates of these laws are fully implemented.

Key words: Religious liberality, self-determination, political stability, religious plurality, Sudan

INTRODUCTION

The constitutional basis upon which the Sudanese civil war could be resolved are enshrined in four important documents: The IGAD Declaration of Principles in May 1994; the Asmara Declaration in June 1995; the Khartoum (Sudan) Peace Agreement in April 1998 and the Constitutional of Sudan, promulgated on 1 July 1998. These documents deal with contentious constitutional issues, which are at the core of the Sudanese conflict. These issues include the question of national unity; the distribution of natural resources; the sources of legislation within the country (religion and state); the judiciary system in the country; the federal system and the issue of self-determination for the people of southern Sudan (Isabella, 1993).

In addition to the above, other important working documents and agreements were concluded between the southern Sudanese and central governments in Khartoum -these documents and agreements should be incorporated in order to achieve a comprehensive and lasting peace in Sudan. They include the March 1965 Khartoum Round Table Conference, which brought together the government of Sudan and southern Sudanese political forces, both from within and without the country; the documents of the February 1972 Addis Ababa Agreement between General Jaafar Numeiri's government and the Southern Sudan Liberation Movement (SSLM) and the documents of the Koka Dam Declaration of March 1986 between the SPLM and the Sudanese National Salvation Democratic Alliance (SNSDA). These agreements and

documents thoroughly addressed some important aspects of the interim period, as well as post-war arrangements which would regulate the north-south relationship (IGAD, 1994).

For example, on the issue of national unity, Article 6 of the Constitution of July 1998, states that:

‘Sudan is united by the spirit of loyalty and compromise among citizens, cooperation in fair and just distribution of authority and national resources. The state and society shall work together to foster the spirit of reconciliation and national unity among all the Sudanese people, to guard against religious parties, political sectarianism and to eliminate ethnic prejudice.

The spirit of this study, which falls under the Guiding Principles of the State, suggest that the Sudanese people have agreed to work for (and maintain) national unity based on the promises contained within the constitution. Consequently, it is important to emphasize that should the warring parties agree to redraft this constitution, an emphasis should be placed on the distribution of authority and mechanisms for reconciliation. The truth of the matter is that there is still no consensus regarding a foundation upon which this national unity could be achieved or maintained. Essentially, if such consensus exists as Article 6 (as it seems to suggest), the war that is currently raging should never have erupted in the first place. Moreover, unless

the dynamics of power politics are well defined at a national level, it would be difficult to guard against religious parties or ethnic prejudices. Moreover, the issue of national unity is associated with the overall outcome of negotiations between the warring parties. In fact, it depends on whether or not the parties agree to work for unity during the interim period (Addis Ababa Agreement Article 6 of February 20, 1972).

RELIGION AND POLITICAL STABILITY

Regarding the question of religion and state, Article 65 of Sudan's current Constitution gives the sources of legislation as follows:

'The Islamic Sharia and the national consent through voting, the constitution and custom are the source of law and no law shall be enacted contrary to these sources, or without taking into account the nation's public opinion, scientists, intellectuals and leaders'.

This article enumerates the sources of legislation in such a way that even though custom is recognized as a source of legislation-which seems to suggest it is the source of legislation for non-Muslims in the country-in practical terms, it has less impact compared to the other sources of legislation. The nation's public opinion would definitely express the opinion of the majority who espouse Islam-most of the scientists, intellectuals and leaders are derived from this group, which would definitely enjoy the majority vote. Consequently, the warring parties should try to handle this issue in such a way that would prevent diverse interpretations being made of the article by the 2 parties (Article, 65).

THE ASMARA DECLARATION

The same question was raised in the Khartoum (Sudan) Peace Agreement and the Asmara Declaration, where the conflicting parties dealt with the relationship between religion and state. On the issue of a secular state, the NDA adopted citizenship as the basis for rights and obligations. It accepted the incorporation of international and regional human rights covenants and instruments within the constitution of Sudan. In the Asmara Declaration, the state was given the duty of safeguarding and guaranteeing religious freedoms. It was also given the responsibility of criminalizing any religious intolerance and punishes.

On the other hand, Article 24 of the Constitution of July 1998, states that:

'Everyone has the right to freedom of conscience and religion and the right to manifest and disseminate his religion or belief in teaching, practice or observance. No one shall be coerced to profess a faith in which he does not believe or perform rituals or worship that he does not voluntarily accept. This right shall be exercised in a manner does not harm public order or feelings of others and in accordance with (the) law.

If we compare the above with another article in the constitution, it is clear that the state religious policy is presented to the Sudanese public as a duty required to be fulfilled by all Muslims. Article 9 of the Constitution, entitled 'Religion' states that:

'Those working for the state and those in public life should worship God in their daily lives, for Muslims this is through observing the Holy Quoran and the ways of the Prophet and all people shall preserve the principles of religion and reflect this in their planning, laws, policies and official work or duties in the fields of politics, economics and social and cultural activities; with the end of striving towards the societal aim of justice and righteousness and towards achieving the salvation of the kingdom of God' (Khartoum, 1974).

Section 4 of the 1998 Constitution deals with the relationship between state and religion, it tends to give Islam more weight as the state philosophy and programme, as compared, for example, to the Asmara Declaration. It is true that in the Asmara Declaration, religion and state are only nominally separated and while the declaration tries to avoid the use of the word 'secularism'-it uses a formula that does not establish Sudan as a theocratic state, as Article 9 of the constitution seems to suggest.

Apparently, the Khartoum (Sudan) Peace Agreement of April 1997 is more explicit with regard to the relationship between the state and religion during the interim period, as compared to other agreements that deal

with the same issue. Chapter Three, Article 2(A) 1 of the Khartoum Agreement, states that:

‘Sudan is a multi-racial, multi-ethnic, multi-cultural and multi-religious society. Islam is the religion of the majority of the population and Christianity and the African Creeds are followed by a considerable number of citizens. Nevertheless, the basis of rights and duties in the Sudan shall be citizenship and all Sudanese shall equally share in all aspects of life and political responsibilities on the basis of citizenship’ (Article 24).

Concerning the sources of legislation within the country, Chapter Three, Article 2 (A) 6 of the same agreement, states that:

‘(a) Sharia and Custom shall be the sources of legislation (b) On the issues of Sharia, the parties agreed on a formula under which Laws of general nature, that are based on general principles common to the State, shall apply at the national level, provided that the States have the right to enact any complementary legislation to Federal legislation on matters that are peculiar to them. This power shall be exercised in addition to the powers that States exercise on matters designated as falling within their jurisdiction, including the development of customary law (Article 9).

This article is clearer on the question of legislation than Article 65. It is also very close to the Asmara Declaration’s interpretation of the sources of legislation during the interim arrangements.

It should be emphasized that almost all the agreements signed by the southern Sudanese political forces and their northern counterparts between 1992 and 2000 have endorsed self-determination for the people of southern Sudan as a viable option, which must be considered during the Interim period arrangements. For

example, Chapter Four, Article 6 (ii) of the Khartoum (Sudan) Peace Agreement clearly explains that after the expiration of the four-year interim period, a referendum must be conducted in southern Sudan (its borders as they stood on 1 January 1956). Chapter 5 of the same agreement deals, in some detail, with how the South should be governed during the interim period. (Khartoum, 1997).

On the other hand, Article 2 of the DOP clearly states that should the interim arrangements reveal that the relationship between the central government and the southern region is not conducive to a peaceful coexistence, then the right to self-determination should be granted to the people of southern Sudan (Article 2 (A)).

However, the central government ignored the issue of self-determination. The non-implementation of self-independence to the south has made peace and peaceful co-existence difficult in Sudan. Another current thorny issue is the Darfur crisis in southern Sudan (Chapter 5 of Sudan peace agreement on Interim Government).

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