



**The Brookings Institution – University of Bern
Project on Internal Displacement**



Luncheon Seminar

Dong Samuel Luak
Secretary-General South Sudan Law Society

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Commentator: **Shannon Meehan**, Director for Advocacy, The International Rescue Committee

Moderator: **Elizabeth Ferris**, Senior Fellow and Co-Director of the Brookings-Bern Project on Internal Displacement

Speaker Bios

Dong Samuel Luak is the Secretary General of the South Sudan Law Society, a position he has held since 2002. The South Sudan Law Society is based in Rumbek. Previously, he served as the Legal Counsel for the Ministry of Justice and Attorney General Chamber in Sudan. He has also worked as a consultant to UNICEF, the New Sudan Women Federation, and the New Sudan Council of Churches and was a member of the Interim National Constitutional Commission, the Interim Southern Sudan Drafting Committee, and the Interim Model Constitution for the Southern Sudan States. Mr. Luak has a degree in public law from the El-Neelain University in Khartoum.

Shannon Meehan is the International Rescue Committee's Director for Advocacy, responsible for covering the IRC's policy priorities for the continent of Africa. She has spent more than 17 years working in conflict zones around the world. A former Peace Corp volunteer in Senegal from 1989 - 1991, Shannon went on to represent the American Refugee Committee International (ARC) in Guinea and later Kosovo, where she served as Country Director, designing and implementing a multi-sector program that reached more than 100,000 beneficiaries. When she was a consultant for Refugees International and the Elizabeth Glaser Pediatric AIDS Foundation, Shannon conducted missions in Senegal, Guinea, Liberia, Cote D'Ivoire, Sudan, the DRC, Rwanda and in the Middle East: Kuwait, Jordan and Iraq. She is an expert on the humanitarian and protection needs of displaced populations and refugees. Her humanitarian work was highlighted in the book, *Those Who Dare*, by Katherine Martin (2004). She is a graduate of the University of Oregon, 1998 BSc in History and Economics.

Summary Report

Presentation by Dong Samuel Luak

The year 2005 marked a turning point in the 21 years of civil war in Sudan when the Sudan People's Liberation Movement (SPLM) and the Government of Sudan (GoS) signed the comprehensive peace agreement (CPA). The signing of the agreement initially improved security and raised hope that IDPs would be able to return to certain areas of Southern Sudan. Arrangements for go and see visits were made, and while actual return figures are unclear, the UN estimates some 400,000 people have returned to Southern Sudan each year since the signing of the CPA, but this process has not occurred without problems.

Civil society played a large role in the returns to the South, specifically ensuring that the needs of the IDPs were taken into account. They implemented the following measures:

- Consultation with IDPs with the intention of promoting durable solutions;
- Assessing options for local integration into the North by consulting IDPs and local authorities;
- Creating information centers for IDPs to inform them of developments in South Sudan, including the security situation as well as socio-economic conditions;
- Promotion of return; and
- Encouraging voluntary repatriation as a durable solution, with the ultimate goal of IDPs returning and reintegrating themselves, but only once conditions of safety and dignity can be met. Successful return can only take place when IDPs feel comfortable and want to go back.

Unfortunately, even with all the efforts being made to ensure safe return, the process is being politicized by officials of the Government of South Sudan (GoSS). A national census is slated to take place in November 2007, and it is expected that this census and its results will have significant implications on planning for national elections in 2008. In addition to the politicization of returns, militia attacks and illegal taxation on roads has discouraged returnees, and some have arrived in the South only to find that there is a lack of resources in terms of facilities, food or clean water, and have consequently returned to the North. There is also concern that IDPs are unhappy at the prospect of returning to a rural life, and prefer to stay in cities or large towns. Dong gave one example of 3,000 IDPs who were transported back to the South from the North, but 2,000 returned to Khartoum. In addition, most of the counties in South Sudan do not meet international standards in terms of education, water, and health services and it could take up to 10 years to build the infrastructure for proper social services.

While there is pressure to return the IDPs in time for the census in the fall, time is also running short with respect to the change in seasons. The end of the dry season is quickly approaching, which means that those IDPs who return during or after the rainy season would miss the planting cycle and would therefore require additional assistance from the Government. The rainy season also makes much of the land in South Sudan impassable, but both the Government and the UN say that the IDPs must return, even if transportation by air is necessary.

Dong concluded his presentation summarizing that the main challenges affecting IDP returns include: military presence; landmines; armed civilians; lack of rule of law; inadequate social services; and a lack of documentation to prove land ownership.

Discussion

Shannon Meehan of the International Rescue Committee thanked Dong for his remarks and went on to further note concern that IDPs were being tacitly coerced into returning to South Sudan. She explained that certain services were being cut for IDPs who have not yet returned which has created a push factor back to the South. She noted that there should be more of an emphasis on developing pull factors that would appeal to IDPs and encourage them to return. She referred to the methodology used in the Balkans which involved offering certain benefits to IDPs that would allow them to view their return in a more positive light. Usually they were allowed to participate in a 'go and see' visit and were often offered a return package (sometimes a house). Shannon explained that providing incentives for IDPs to return is better than cutting off services where they currently reside, however she did note that there is still no way to guarantee that IDPs would want to return. One of the best ways to assure IDPs that it is safe to return is to make information regarding security accessible, and most importantly, for the Government to ensure that this security is sustainable. Shannon questioned whether or not there were any institutional arrangements in place at the local level working on the return process.

In promoting returns, it is also important to ensure that disarmament, demobilization, and reintegration (DDR) programs do not overshadow IDP return and reintegration. It is necessary to treat the community as a whole – balancing programs to include both those who left and those who stayed during the conflict. The development of infrastructure to provide social services, such as education and healthcare, to the returnees along with further economic development is essential to ensuring the returns will be sustainable. Currently, many Sudanese are being drawn away from South Sudan to work for the government or the UN, which have higher wages. While this is important, the international community still needs to promote the development of civil society, community based organizations (CBOs) and private sector development.

During the discussion, concerns were raised over the institutional arrangements between the GoS, the GoSS, and local governments with regards to IDP and refugee return. Dong responded that policies have been enacted by the GoS, but that there has not been much activity on the local level. Independent experts have argued that before returns should happen en masse, institutions to handle the returns and provide social services need to be built. However, both the GoS and the GoSS have their own interests in the issue. The GoSS is pushing IDP and refugee returns for the upcoming census, which they want to take place even if there are not institutions. If this happens, Dong and Shannon argued, IDPs and refugees will return and find that there are no social services and will only leave to go back to where they were.

Dong noted that as a result of the CPA, a land commission had been established, but there is no legal framework in place to guide its work. Another participant asked about the legal status of women with respect to land tenure. Dong responded that even though women and children are the majority of IDPs from the South, women cannot own land, and that property ownership is

solely connected to the husband or his family. Even still, there is no real legislation regarding land. He said the CPA does mention land, but that it is not clear which law to apply, and that it is still customary practice for chiefs to deal with land issues.

One participant asked about consultation mechanisms for working with IDPs. Dong replied that IDPs are very accessible and willing to talk. He said surveys have been conducted among IDP communities in Khartoum.

A representative from the State Department asked about the ways in which civil society could assist in creating incentives for IDPs to return, and that State has been trying to look at ways to better support indigenous capacities and not just international ones. Dong indicated that the role of civil society is becoming less effective due to Government actions, but hopes that they can play a bigger role in the future, as these groups better understand the situation of returns and are better placed to explain the process to IDPs. Shannon went further noting that it is important to develop a strong civil society, but at the same time, the government has to play its policymaking role in areas such as education and health policies.

Other participants asked questions about the current status of funding, stating that there appeared to be a lot of funding available, but without clear priorities, and that little progress has been made because funding has been scattered among various projects. Shannon noted that the IRC is currently looking at funding both pre and post CPA. There was additional concern that the situation in Darfur was a threat to future funding as well as the overall security situation throughout Sudan. Dong agreed that the situation in Darfur could destabilize security in South Sudan and the CPA. He continued to say that civil society, the GoS, and the SPLM need to play a greater role in Darfur. Shannon noted that there is an upcoming meeting of donors, and rumors are circulating that donor countries will not be willing to move forward with funding for South Sudan due to the GoS's behavior in relation to Darfur. Donors are also aware that the GoS has made little movement on the CPA provisions, which could also cause them to reconsider funding. The key issue will be to find a way to resolve the conflict in a way that does not threaten the GoS. Both Shannon and Dong noted that Khartoum feels threatened about losing Darfur and is fighting to maintain the region as part of Sudan. Shannon suggested that it would be constructive to use the CPA as a model, but strive towards decentralization of the GoS rather than independence for Darfur. It was noted that 10,000 IDPs fled South Sudan to Darfur and they are now being forced to flee again. Shannon pointed out that Darfur was not included in South Sudan's CPA, and that Khartoum is very concerned about the political implications should they lose control over the conflict.

List of Participants

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