

South Sudan's prospects on Decentralization visa vie Federation



Author: David De Dau

Position: Executive Director

Contact mail: daviddedau@gmail.com

Organization: Agency for Independent Media

Date: 22nd June, 2014

The current system under the Transitional constitution of the Republic of South Sudan acknowledges a decentralized system of governance. In order to shade light on decentralization system, it is defined as the transfer of authority and responsibility for public functions from the central government to intermediate and local governments or quasi-independent government organizations and/or the private sector. This is a complex, multifaceted concept that was adopted by the people of South Sudan.

On the other hand, Federalism is the form of governance in which (1) two levels of government rule the same land and people; (2) each level has at least one area of action in which it is autonomous; and (3) there is some guarantee even though merely a statement in the constitution of the autonomy of each government in its own sphere. For those governmental systems, which profess to be democratic, one might add another point: (4) each level of government has powers, which are delegated directly to it by the people. In other words, South Sudan actually meets the characteristics of a federation. Only a few more things are needed to be fix and it shall fully be a federal government.

Diversities are not to be considered as a burden but an asset that a country can build upon. Unfortunately, however, diversity is often considered by most politicians as a problem that a country like South Sudan has to accommodate. On the contrary, we need to consider diversities as an opportunity for South Sudan that is enriched by different languages, cultures, religions and traditions. Only if we are able not only to cope with and accommodate diversities will we contribute to a sustainable peaceful development.

The currently high debates about federal system visa vie Decentralized system for South Sudan is proving that South Sudan is still repositioning herself on the global stage of political and socio-economic stability. Having keenly observed and read more debates why federalism is an option or not for South Sudan is healthy for this country. The debates also show that South Sudanese are at least doing some re-thinking and re-discussing what is good for the people of South Sudan. Federal system is all about giving autonomous powers to a region or a state within a diversified united country. No Region or state in South Sudan has so far registered or claimed independence of one as fears skyrocket some members of the leadership in this country. This autonomy could as well be applied to the counties and payams depending on the constitutional frame work of South Sudan. If South Sudan is ready to accommodate diversity, autonomy could be used as a tool to accommodate diversities. Autonomy is feared and rejected with arguments that it prepares the way to secession, leads to disintegration, undermines harmony within the state, and creates important inequalities. Consequently autonomy is also regarded as an impediment to integration and instead systems of multi-ethnicity based on individual human

rights are advocated in the belief that minorities will be to foster their special identities within the melting-pot or multi-ethnic system.

Yet perhaps the benefits are overstated, and some disadvantages may be lost to sight. For example, will the devolution of responsibilities in a federal system sacrifice values of equality and social justice, because of differences between rich and poor regions? Will those values and others be diminished when states and counties are given more power, because citizens of these limited regions may be less tolerant of minorities in their midst? The history of the U.S. South and the treatment of native peoples by Canadian provinces offer sobering examples. Will states and counties compete against each other in destructive ways, undermining the economic-development strategies of all?

However, it is sometimes thought that emphasis on the cohesive and exclusive nation state is the only way to manage conflict among distinct groups. Cohesion can be fostered, however, by processes emphasizing inclusiveness of all the different diversities. This inclusiveness must be based on the values of justice, democracy, tolerance, respect of diversity and rule of law that are not only accepted by all different ethnic communities but that establish for all communities a new and stronger identity making possible unity among the different communities.

Whoever explores these challenges will detect, however, that federations with the guarantee of strong autonomy for their constituent units have in fact had the opposite experience. Indeed, strong autonomy has often fostered the real accommodation of diversities because unity can only be sustained on the basis of mutual respect and tolerance. If we; the citizens feel at home and secure within our regional and local communities, then we may be more willing to also to identify ourselves as citizens of the larger federation. Both the politician and the people will be convinced of the win-win benefit from being part of a federal system. They can both foster their identity within the constituent unit and profit from the advantage of the bigger state through cooperating in the shared rule with other diversities at the central level of the federation.

Autonomy is majorly the principle of self rule. In this sense regional autonomy is the right of a constituent unit in a state to rule on the issues within its constitutional competences. Constituent units may have self rule with regard to their own constitution-making and thus have their own constitution relating to their own legislative, executive and judicial powers. With regard to the content of regional autonomy, there are different varieties and degrees of decentralization as currently featured in the current Transitional Constitution of the Republic of South Sudan. For instance, the member states of European Union consider legislation is ruled by the European Union. Hong Kong is under the sovereignty of China but has its distinct legal system. Greenland belongs to Denmark but is not a member of the European Union. On the other hand, the federal units in the Russian Federation or in Austria have less autonomy than autonomous regions in the Unitary but decentralised system of Sweden.

Autonomy, in order to accommodate different diversities can be provided in different ways. A unitary system can decentralize, by central legislation and assigning special competences accommodating the particular demands of different regions with regards to their vital interests. In such a system autonomy depends totally on the whim of the majority in the central legislature. In states where particularly minorities desire stronger autonomy and devolution, some constitutional guarantees with regard to the autonomy granted are indispensable to protect minorities. In federal systems the distribution of powers is generally defined by the constitution. Thus, the constituent units enjoy constitutionally guaranteed legislative, executive and judicial powers. Furthermore, through their constitutional autonomy they can in addition also accommodate local diversities by internal decentralization granting autonomy to their municipalities.

Most important with regard to autonomy is the allocation of financial resources. In fact real autonomy is only possible when the autonomous units can also levy their own taxes and have the ability to finances, it is of utmost importance, nevertheless, that financial inequalities among the different autonomous units are equalised by special tools for fiscal equalization since financial disparities can be corrosive. Such equalization is politically feasible, however, only if there is a minimum solidarity among the different autonomous units.

With regard to the challenge of diversity, regional self rule and autonomy is, together with the shared rule principle, the most important structural tool to accommodate different diversities within a country. The various diverse groups can foster their own culture and identity if they have a measure of autonomy. In a federal system different communities are able within the overarching federation to enhance their own interests based on their special identities by enjoying at the same time both the advantages of profiting from being members of the superior federation and retaining their cultural development.

Diversities should not be tolerated only as a special burden by the majority. Diversities in fact enrich national policies with additional values. Only by granting autonomy, which can foster the diversities and the different identities, are federations able to profit from this enrichment. By providing autonomy to different communities a federation both builds on and fosters the diversities. By enhancing diversities it enables all the citizens of South Sudan to feel at home within their motherland. South Sudan is challenged and is enriched by its diversities has to build on these diversities. This again requires that the diversities are given the possibility to develop according to their own ideas, values and interests. Only when the diversities are able to define who they are and build on their own self-consciousness are they able to cooperate on a basis of partnership with other diversities and thus contribute to the added value of one strong and diverse nation.

Should the current South Sudan's Decentralized system fail to be transformed, this may be another uphill task for the government of the day to implement her activities, provide security and keep law and order. Should transformation take place into a federation, then the Republic of South Sudan (RSS) should and ought to constitutionally rename itself as the Federal Republic of South Sudan (FRSS) or Government of the Federal Republic of South Sudan (GFRSS). Without fear or prejudice, the president of the Republic of South Sudan is defending one of his core mandates to protect the constitution which he swore to the people of South Sudan to pay his allegiance and to protect it. Under the demand of the electorates of South Sudan, the president would not be a hinder but to accommodate their diversities. It was one of the SPLM/A war principles in 1983 and even before to see the then Khartoum government have an inclusive government and federation was one the pre-echoed principles of the former Sudan civil war.

However, the people of South Sudan have several choices to make when it comes to what kind of system of governance they want. There are many options in regard to what kind of governance South Sudan wants. There are equally other territorial federal options that include three former regions of Bhar el Ghazal, Equatoria and Upper Nile to form federal regional governments and get rid of the state governments. South Sudanese regional nationalism seems to have taken lead over national nationalism. This act alone automatically portrays South Sudan as Federal by nature of seeing things rather than enforcing divided nationalism. The second option is to strengthen the current ten states of South Sudan and give them federal powers where there are only ten federal states but with no more regional groupings as it appears in the case of Bhar el Ghazal, Equatoria and Upper Nile regions which are contemporarily called Greater regions that are not even constitutional. The third option is to get rid of the current ten states and form a government of 80 counties that will directly deals with the federal central government. The last

and not by means the least option is to have Federal Republic of South Sudan that accommodates all the four levels of governments that include National or Central government, Federal Regional governments, State governments and County governments.

In the later government, each of the regional government will have powers that will enable them run their government. The federal central government may be directly in charge of national security, bi-lateral relations and investments, federal roads, and may have concurrent powers with the Regional, state and county governments. The geographical areas of jurisdiction must be well defined by the federal and other levels of constitutions.

The main aspiration of a free country is liberty. A functional government has to provide security for the citizens in order to enable them to pursue their happiness in the liberty. South Sudan with such diversities needs not only to seek individual liberty for all its citizens, but also to look for peace among the different communities. Besides individual freedom, peace among communities is one of the main goals to seek in a multi-cultural Country. In order to promote peace among the different groups, federal political systems can provide special tools to facilitate the reduction of overpowering nationalism and emphasize multiple loyalties. Moderating nationalism is made possible by providing autonomy for the different communities on a territorial or personal basis. The Swiss experience with direct democracy in addition reveals that decision-making through direct democracy in most cases moderates nationalism. Voters are usually less induced by nationalistic feelings, tending to seek more of their personal rather than ethnic interests. Party systems which include different diversities within individual parties or coalitions are additional tools for reducing the intensity of regional nationalism.