

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES
NEGOTIATING POST REFERENDUM ISSUES IN SOUTH SUDAN: PROSPECTS AND
PITFALLS

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DECLARATION

This research project is my original work and has not been presented to any other university.

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DEDICATION

I dedicate this work to my late father Manasseh Kiir, late beloved mother Abuk Ayuel and my late first born daughter Abuk Riak. Furthermore I dedicate the work to my family, relatives and friends.

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I would like first to thank God, Who provided for my needs, guided and sustained me during the period of my training and academic work.

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ACRONYMS

AU	African Union
AUHIP	African Union High Level Implementation Panel
CPA	Comprehensive Peace Agreement
DDR	Disarmament, Demobilization, and Reintegration
DFA	Department of Foreign Affairs
DoP	Declaration of Principles
DPA	Darfur Peace Agreement
EPRDF	Ethiopian People’s Revolutionary Democratic Front
EU	European Union
GDP	Gross Domestic Product
GoS	Government of Sudan
GoSS	Government of South Sudan
GRSS	Government of the Republic of South Sudan
HIPC	Highly Indebted Poor Countries Initiative
HSBA	Human Security Baseline Assessment for Sudan
IBMA	Integrated Border Management Approach
ICC	International Criminal Court
ICG	International Crisis Group
IGAD	Intergovernmental Authority on Development
IGADD	Inter-Governmental Authority on Drought and Development
JBVMM	Joint Border Verification and Monitoring Mechanism
JHLC	Joint High Level Committee

JICA	Japan International Cooperation Agency
JIPU	Joint Integrated Police Unit
JPSM	Joint Political and Security Mechanism
LRA	Lord’s Resistance Army
NBI	Nile Basin Initiative
NCP	National Congress Party
OAU	Organization for African Union
PDF	Protection and Deterrent Force
SAF	Sudanese Armed Forces
SALW	Small Arms and Light Weapons
SDBZ	Safe Demilitarized Border Zone
SKS	South Kordofan State
SPLM/A	Sudan People’s Liberation Movement/Army
SPLM/N	South Sudan People’s Liberation Movement-North
SRF	Sudan Revolutionary Front
SSDF	South Sudan Defence Forces
TBC	Technical Border Committee
TFA	Transitional Financial Arrangement
U.S	United States
UN	United Nations
UNAMID	United Nations–African Union Mission in Darfur
UNMISS	United Nations Mission in South Sudan
WAAF	Women Associated with Armed Forces

ABSTRACT

The turbulent history of Sudan over the past two centuries has featured multiple wars driven by exploitation and competition between states and sultanates, ill-documented largely uncontrolled population movements in the hinterlands; sectarianism and religious movements and control by powerful colonial interests. The aim of the study was examine the prospects and pitfalls of Post Referendum negotiations in South Sudan and specific objectives being to: discuss the post-referendum issues in South Sudan; investigate the pitfalls of post-referendum negotiations between South Sudan and Sudan; and discuss the prospects of post-independence of South Sudan. The study used external desk research technique. The study conducted a qualitative data analysis method approach that was both theoretical and empirical in form. The study found that borderline belt is an issue in South Sudan.

Major border areas are in dispute. It found sharing of resources as another issue in South Sudan. The resources the study found are oil & revenues and Nile waters. It found that both the North and South Sudan depend heavily on independence alerted resource ownership, oil revenues and current wealth-sharing arrangements. Another issue identified by the study is that of Abyei. The study found that main part of the disputed area consists of a network of waterways flowing into the Bahr el-Arab on its way through Kordofan into the Bahrel-Ghazal. Issue of relations with international community is another issue. The United States continued to provide humanitarian assistance to South Sudan and in finding a diplomatic solution to the North-South Sudan conflict. It succeeded somewhat in its efforts as a result of the Comprehensive Peace Agreement (CPA) in 2005 that called for a referendum in July 2011, in which the South opted for independence. After South Sudan gained independence, the Obama administration promised that it will try to provide all possible support. In identification of the pitfalls of post-referendum

negotiations between South Sudan and Sudan, the study found lack of inclusivity of interested parties in southern Sudan, notably civil society and political parties, claimed to be comprehensive. The lack of inclusivity of the peace process means that the Sudanese people could only pass judgment on the CPA through national elections, the elections were conducted but the difficulties in demarcating the North-South border and ending the conflict in Darfur resulted in a further postponement.

The study found that peace process never developed trust and understanding. This was evident between the parties. It was also evident in the failure to commit to wide-ranging reconciliation, in its absence and, the mediation followed Western practice and emphasized legal requirements and time-tables. It found that the elitist approach of the mediation was also manifest in its disdain for the media. The study found that the second IGAD peace process brought hope to South Sudan. The frustration with the lack of progress in the peace process led to the growing US interest in Sudan. As a result of the increasing profile of Sudan's civil war in domestic politics and its perceived link to American security, and the rejuvenation of the peace process were linked and provided the stimulus for the second and successful IGAD peace initiative. The study found that Government of South Sudan (GoSS) leaders should seize this rare opportunity to tackle challenges facing citizenry by investing in sectors that would bolster the country's economy like the agriculture. The study recommends that the South Sudan and North Sudan must continue negotiations. It is in the best interest of the two nations to maintain peace and establish mutually beneficial interactions. The divorce was inevitable but so is the need for continuous engagement.

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.0 Introduction

This chapter presents the background information on post referendum issues in South Sudan looking into the perspectives and pitfalls. The chapter presents the problem and the objectives of the study. The chapter sets the study hypotheses, reviews relevant literature and presents the theoretical framework within which it is anchored. The chapter finally presents the methods used to undertake the study and outlines its organization.

1.1 Background of the Study

The turbulent history of Sudan over the past two centuries has featured multiple wars driven by exploitation and competition between states and sultanates, ill-documented largely uncontrolled population movements in the hinterlands; sectarianism and religious movements and control by powerful colonial interests¹. Medieval tributary states and sultanates, including the Funj Kingdom, the Sultans of Darfur and the Musaba'at Sultanate, acting separately, seem to have opened a wide space for movement of nomadic pastoralist communities, allowing them to range south into the territories of settled Sub-Saharan African communities. These movements laid the basis for inequitable horizontal relationships. It is reported that Arab slavers used the vast western hinterland of the Central Nile Valley as a hunting ground for human booty. Anglo-Egyptian attempts to curb the trade came only late in the nineteenth century and had limited success².

¹United Nations, (2006). *Sudan: Common Country Assessment (CCA) & United Nations Development Assistance Framework (UNDAF), 2002–2006.* April 2002. <http://www.sd.undp.org/Doc/CCA-UNDAF-Apr2002.htm>.

²Ibid.

Sudan gained independence from joint British-Egyptian rule in 1956. But full-scale civil war erupted before independence over the status of the South Sudan in August 1955, which had been ruled separately by the British. The military led government of President Jaafar Nimeiri took over the power 1969 agreed to autonomy government for the South in 1972 Addis Ababa accord, but fighting broke out again in 1983 that led to formation of Sudan People liberation Movement/Amy. In 2005 Comprehensive Peace Agreement was signed, with international supports, that led to formation of coalition government of national unity between the ruling National Congress Party and the Sudan People's Liberation Movement and mechanisms for self-determination. This includes the option of independence for the south.

The CPA marked the end of a long civil war that began in 1983. Juridical, the CPA process may be described as domestic asymmetrical negotiations between the government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A), but in practice they resembled bilateral negotiations between two governments³.

The Intergovernmental Authority on Development (IGAD) – the regional organization – provided a framework for the CPA negotiations. The Troika countries – the U.S., Britain and Norway – exerted pressure on the parties and supported the talks financially, logistically and through expertise on relevant issues. Other countries also contributed financially and were active supporters of the process at the time, significantly Italy and the European Union (EU). After the CPA was signed, a six-year interim period began, monitored by the international Assessment and Evaluation Commission. The CPA was based on a mutual obligation to make the continued unity of Sudan attractive for southern Sudanese people. During the interim period, the parties and others involved in the implementation of the CPA were obliged to abstain from officially

³Endre, S., and Alex, W. (2013). *Interviews with Norway's special envoy to Sudan and South Sudan*. Fletcher School, Tufts University

supporting or promoting a future independent South Sudan. As unity became increasingly unlikely, this policy became a straitjacket that made it difficult for involved parties to plan the transition to an independent South Sudan.

In 2010, the African Union High Level Implementation Panel (AUHIP)⁴ emerged as the framework to negotiate post-referendum and post-CPA relations between the two Countries. Originally having a broad mandate, the AUHIP has mainly focused on facilitating relations between Sudan and South Sudan.

On July 9th 2011 South Sudan became an independent country the first three years as a sovereign state have been a bumpy ride. This is not only for South Sudan, but also for Sudan which is its northern neighbor. Both countries have struggled with periphery rebellions, political turbulence and strained economies linked to a cluster of unresolved issues between these two countries. Most of these issues are legacies of the conflicts and relations that existed before South Sudan's secession.

The January 2011 Referendum resulted in an overwhelming majority of southerners favoring South Sudan's secession, necessitating negotiations over the terms of the new country's independence and future relations with the remainder of Sudan. Post-independence relations between the two countries bear a striking resemblance to the pre-2011 period. Indeed, these continuities might even overshadow the fundamental changes that have indeed taken place in the formal status of the negotiations between the two countries and the negotiators, the relative strength of the two parties and the new setting which has also affected the goals and strategies of the leaders involved. To date, negotiations have been ongoing but with numerous prospects and pitfalls this study discusses.

⁴AU (African Union). (2010). *Report of the Chairperson of the Commission on the Situation in the Sudan and on the Activities of the African Union High Level Implementation Panel on Sudan*. Presented at the 250th Peace and Security Council Meeting, Tripoli, Libya, November 30th

1.2 Statement of the Problem

After South Sudan achieved its independence three years ago in July 2011, from Sudan after long civil war, from May 1983 to July 2005, the relations between the two countries remain not good, for some time due to post-Referendum issues. The implementation of Comprehensive Peace Agreement CPA that was signed in 2005, between Sudan Liberation Movement/Army SPLM/A and Sudan Government led by National Congress Party NCP. The CPA had faced many challenges during implementation period. Some protocols were not implemented as it was agreed during the signing, the Abyei area protocol and border demarcation between two countries are the most major pending post-Referendum issues that has led to a military skirmishes along the border line after independence of South Sudan in July 9th, 2011.

Consequently, attention gravitates toward the new issue of concern leaving the first issue on hold; sometimes the new development may be a machination of one of the unsatisfied powers at the initial negotiation. This is a strategy employed to buy time in the process of negotiation so as to tilt the balance in favour of an aggrieved. Another issue that arises from the CPA during the process of implementation, There is always the tendency to underestimate some issues in the process of negotiating a ceasefire in conflict situations. These undone issues later appear as clog in the wheel of progress during peace agreement implementation.

South Sudan post-Referendum issues remained an obstacle for stability and development, economically South Sudan is depending on oil revenue, and some of oil fields are along the disputed border line between Sudan and South Sudan, also they are militia groups that were allied to Sudan government during civil war, some are still active operating along the border line with military support from Sudan government.

1.3 Research Objective

The study examines the prospects and pitfalls of Post Referendum negotiations in South Sudan.

Specific Objectives

- 1.3.1 To discuss the post-referendum issues in Post-Independence Sudan
- 1.3.2 To investigate the pitfalls of post-referendum negotiations on nine cooperation agreement between South Sudan and Sudan.
- 1.3.3 To discuss the prospects and pitfalls of peace and stability in Post-Independence South Sudan.

1.4 Research Questions

- 1.4.1 What are the post-referendum issues in Post-Independence Sudan?
- 1.4.2 What are the pitfalls of post-referendum negotiations on nine cooperation agreement between South Sudan and Sudan?
- 1.4.3 What are the prospects and pitfalls of peace and stability in Post-Independence South Sudan?

1.5 Hypotheses of the Study

The study tests the following two hypotheses namely:

- 1.5.1 Since the last referendum in South Sudan, Pitfalls have not significantly affected South Sudan negotiations.
- 1.5.2 The prospects of post-independence of South Sudan have no significant influence on peace negotiations.

1.6 Justification of the Study

1.6.1 Academic Justification

Scholars and researchers can find the results of this study useful for further research on influence of various specific factors on strategy implementation in an organization. This can help in compilation of data that can enhance development of efficient organization strategies based the identified factors.

Academicians need to understand the nine agreements on a range of pending issues that Sudan and South Sudan have been negotiating since 2010. This study provides a clear discussion on the nine agreements signed in accordance with the post-referendum agreement negotiations. As the country history, information about the parties which were engaged in the negotiations of outstanding CPA issues and the several agreements reached relating to the CPA and the post secession issues is available.

It is important to educate students on the reasons that led to the separation of Sudan to South and North Sudan. This study explains to academicians that the independence of South Sudan was enabled by the terms of the Comprehensive Peace Agreement (CPA) of January 9, 2005, sought to end 22 years of civil war between the South and North.

1.6.2 Policy Justification

This study examines the prospects and pitfalls of Post Referendum negotiations in South Sudan. The results from this study can be useful to South Sudan as a country in terms of understanding the kind of prospects and pitfalls that exists since they conducted the referendum.

This study is useful to the Government of South Sudan. It unveils the pitfalls which helps government officials develop policies to tackle the pitfalls. The policies can help the country not to do the same mistakes again as they work towards peace in the country.

The United Nations and some bilateral donors are reviewing their assistance strategy in light of the current economic crisis, and have announced the re-prioritization of their aid policy focusing on direct delivery of social services and on food assistance through non-governmental organizations similar to during the civil war. This study shades light to the extent UN can be willing to help the country. This enables SS policy formulators formulate policies which can protect the UN mission in the country.

1.7 Literature Review

1.7.1 The South Sudan Referendum

The South Sudan referendum was held on the sixth anniversary of the CPA—on 9 January 2011—and was conducted over seven days. The term ‘referendum’ can be defined as an event where the electorate votes directly to either approve of or reject a particular measure⁵. Such was the case in Sudan during the second week of 2011, when eligible Southern Sudanese held the nation’s destiny in their hands, as they had the opportunity to decide whether the past 54 years of a united Sudan had been an environment that they wished to continue living under, or one that was worth parting ways with through secession.

Despite the many delays and fears that had been voiced by various stakeholders and commentators, the South Sudan referendum was conducted in a transparent and satisfactory manner, with very few irregularities being reported. Both the United Nations and the African Union observers stated that the voters had cast their votes in a free and fair atmosphere⁶. Final results released on 7 February 2011 by the South Sudan Referendum Commission indicated that

⁵Collins English Dictionary, (2010). 10th edition. London: Harper Collins. *Definition of ‘referendum*.

⁶Ibid

a new African state was on the horizon, as 98.8 per cent of Southern Sudanese had opted for secession⁷.

This historic polling event was characterized by a high voter turnout, which meant that most of the South Sudanese who had registered to cast their votes viewed the referendum as a moment in history when they had the collective power to shape their future and that of generations to come. Indeed, not only was the referendum a significant moment in the history of the African continent, but it also constituted a globally important event, as was demonstrated by the heavy international media and observer presence.

The decision taken by the electorate to secede did not come as a surprise, considering that in the national elections that had been held in the previous year, the majority of the Southerners had voted for the SPLM, which was in favor of secession rather than a united Sudan. As a result, 9 July 2011 saw the birth of a 54th state in Africa in the form of South Sudan. This is not to say, however, that the North and South will cut their ties; indeed, many commentators and Sudanese government officials have cautioned about the importance of post-referendum cooperation between the two Sudanese states. Before declaring independence, both regions had to finalize a separation agreement which should have addressed outstanding issues such as security arrangements, sharing of oil revenues, completion of border demarcation and citizenship rights⁸. As independence in South Sudan has become a reality, lingering problems that may pose a challenge to the leaders of the new state persist. The communication and transportation networks in the region are incredibly poor. For a region with 619 700 km², South Sudan has less than 50 km of paved roads. This is possibly the worst road coverage in the world. The lack of paved roads could be a major reason why the referendum exercise took over a month to complete.

⁷Southern Sudan Referendum Commission (SSRC), (2011). *SSRC announces final referendum results*.

⁸Mbakwe, T. 2010). *Sudan parties should show responsibility*. New African, December, p. 16

Another flash area which could derail the implementation of the peace agreement that ended the country's civil war is the unresolved border dispute in the Abyei region. Residents of Abyei were due to hold a separate referendum simultaneously with the rest of the South in January, but attempts to create a referendum commission in the area remain deadlocked, this is evident amid feuds between communities in the area over the right to vote⁹. Together with other AU high-level panel members charged with the implementation of the CPA, former South African president Thabo Mbeki has been meeting the protagonists in the Abyei conflict in Addis Ababa in order to try to resolve the differences amicably. It seemed that both the North and South agreed not to allow the Abyei dispute to disrupt the independence process in South Sudan.

1.7.2 Secession of South Sudan

According to Brosche¹⁰, the path to this political divorce was anything but peaceful. The Government of Sudan did not accept that the campaign for independence by South Sudanese reflected the will of the people. The officials in Khartoum implied that the secession resulted from Western interference and the Zionist lobby while seeking scapegoats. In a conference called the "Fateful Issues Conference," the Sudanese government representatives from the eventually agreed on self-determination for South Sudan. The Machakos Protocol subsequently reinforced the decision for the right to self-determination for the South Sudanese.

The independence of South Sudan was enabled by the terms of the Comprehensive Peace Agreement (CPA) of January 9, 2005, which sought to end 22 years of civil war between the North and the South. The agreement calls for national elections and a referendum for secession of the South in 2010. An extraordinary achievement in the history of Sudanese politics, the CPA addresses a wide range of controversies and challenges surrounding religious and cultural

⁹Abyei conflict could derail Sudan's North-South peace process, UN warns, 2011.

¹⁰Brosche, J. (2011) *The Crises Continue Sudan's Remaining Conflicts*. Working Paper no. 41 Milan, Italy: ISPI October 2011. Available at: www.ispionline.it/it/documents/WP41_2011.pdf (accessed July 18, 2014).

diversity, rural power-sharing, marginalization, and a transformation toward democratic governance. The outcome seemed inevitable when the citizens of South Sudan went to the polls to vote on the referendum for independence the referendum for secession passed by more than 98% of the vote. Secession from the Republic of Sudan was the South Sudanese people's response to a long mistrust, history of acrimony, and war. On July 9, 2011, when the nation declared its independence, the 192 United Nations members States offered their endorsement.

1.7.3 Post Secession Negotiations in South Sudan

The secession of South Sudan from Sudan had major economic, political, and social implications. The expansive border between the two countries spans 2135 kilometers — more than the borders collectively around South Sudan with Ethiopia, Kenya, Uganda, Central Africa, and the Democratic Republic of the Congo. Border areas between Sudan and South Sudan are inhabited by 81 pastoral tribes, representing 20% of the population in both countries. On one side of the border, Sudan has five states: East Darfur, South Kordofan, White Nile, Blue Nile, and Sennar. On the other side of the border, South Sudan has also five states of Upper Nile, Unity, Northern Bahr el Ghazal Western Bahr el Gazal and Warrap. , the general euphoria that came with independence quickly turned to bitterness, with threats and counter-threats emerging from both Khartoum and Juba regarding control of the border areas.

After secession, both countries began levying accusations of military intervention threatening internal security. The Republic of South Sudan and its ruling party — the SPLM — accused Khartoum of supporting militia groups and political movements seeking to overthrow the nascent government in Juba. For their part, the Government of Sudan charged the SPLM with fostering close military and political ties with an umbrella movement called the Sudan

Revolutionary Front (SRF), a group working toward the forceful overthrow of the government in Khartoum.

There are several reasons why the baton passed from IGAD to the AU. IGAD's involvement was deeply linked to the CPA process, which was founded on the assumption that Sudan was to remain united. It would have required drastic changes to the whole framework of the agreement to accommodate negotiations over the terms for referendum. These pitfalls might have been overcome if there had been sufficient willingness to start such a process, but a complete makeover proved to be more politic. Although IGAD was an African organization, the creation of the AUHIP grew out of the AU's ambition to find "African solutions to African problems"¹¹.

IGAD's engagement was regarded as an extension of Western countries' quest for influence in the region. A change to an African framework through the AUHIP was a convenient solution for the Troika countries, which wanted to distance themselves from what had increasingly become a "hot potato". Western countries are now primarily engaged through their special envoys and through financing the IGAD Transitional Support Unit, which was established in late 2011 with the purpose of supporting the AUHIP financially and logistically.

Both the composition of the negotiating delegations from both parties and some of the key issues on the table have changed little since the CPA process started in 2002. Because of these obvious continuities, some of the fundamental, less conspicuous changes have gone largely unnoticed. The introduction of the AUHIP framework and the formal shift from a domestic negotiation process prior to July 2011 to one between two sovereign states are important. Firstly, as an independent and sovereign state, South Sudan has a new set of rights, duties and

¹¹Reuters. (2013). *Sudan lifts threat to block South Sudan oil, foes vow to mend ties*. September 13th.

responsibilities, to which the international community can hold it accountable¹². The international community also has new obligations regarding disputes between South Sudan and Sudan, which are no longer domestic conflicts, but international disputes. The obligation to react to violations of the sovereignty of one of the parties by the other is encoded in the charters of international organisations such as the United Nations (UN) and the AU.

The negotiations have not only changed their status from “domestic” to “international”, but have in this process also increased their international significance. Firstly, compared to a domestic agreement, it is more legitimate for third parties to hold the signatories accountable if they violate an international agreement. Secondly, any agreement negotiated after the secession will function as a regulatory document of the relations between the two states, and will thereby also contribute to giving added substance to South Sudan’s newly won sovereignty.

The relative prospects of the parties in the negotiations is decisive for the turn the negotiations take and for the incentives the parties have to continue talks rather than resorting to other strategies. Before 2005 the incentives for pursuing the CPA talks were the prospects of ending the civil war and the ensuing peace dividends – the alternative was continued civil war¹³. Other incentives for negotiation were the promise of the lifting of U.S. sanctions on Sudan, the threat of a more confrontational relationship with the U.S. While progress was made in the CPA negotiations, the war in Darfur hindered the lifting of sanctions. Ten years later, what are the incentives for the leaders of the two Countries to continue negotiations within the framework of the AUHIP. The two countries are bogged down by their internal crisis the Khartoum government is facing economic difficulties and army rebellion in Darfur, South Kordofan and

¹²Luca, Z. (2013). *First secretary, EU Delegation to the AU, Addis Ababa, Ethiopia*, July 1st 2013; and EndreStiansen.

¹³Rolandsen, O. H. (2011). A quick fix? A retrospective analysis of the Sudan Comprehensive Peace Agreement. *Review of African Political Economy*, 38(130): 551-64.

Blue Nile. Also South Sudan government is facing a new army rebellion led by former Vice President Dr Riek Machar that had resulted to the closure of some oil field in Unity State, which has led to decline of oil production.

Collier and Hoeffler¹⁴ presented lack of internal cohesion as a pitfall that is specific to South Sudan, but the frequent manifestations of internal dissent in Sudan are equally threatening, if not more so, to regime stability. The current government in Khartoum faces a lethal cocktail of periphery rebellions, unruly militias, strong urban resistance, a mutinous army and splits within the ruling clique. The regime has grappled with the unpopular civil war in Darfur since 2003, which also has serious international repercussions, isolating and weakening the regime politically and economically. When rebellions in South Kordofan and Blue Nile reignited in mid-2011, internal rivalry within the ruling elite came out in the open. As student protests started in Khartoum, the support base of the regime seemed to crumble away.

The referendum was also an up-hill struggle for South Sudan. Juba's main issues are the lack of state penetration in rural areas, small-arms proliferation among civilians and a general lawlessness accompanied by vigilantism¹⁵. Many Sudanese politicians and foreign observers gave the new state a dark prognosis, suggesting that it was only the opposition to Khartoum and the struggle for autonomy that had kept the South Sudanese united. The government in South Sudan has proven more resilient than expected, however: splits have been few and manageable, and it has survived the one-year halt in oil production, as well as heavy internal political contestation and a series of military insurgencies in the states of Unity and Jonglei. Despite a series of internal disputes, the SPLM has continued as a grand alliance uniting most political groups. It remains to be seen, however, if the fallout from the radical government reshuffle of

¹⁴Collier, P., & Anke, H. (1998). *On economic Causes of Civil War*, Oxford Economics Paper 50(4), pp. 563-573

¹⁵Schomerus, M., & Tim, A. (2010). *Southern Sudan at Odds with Itself: Dynamics of Conflict and Predicaments of Peace*. London: London School of Economics and Political Science.

summer 2013 and the imminent national convention of the SPLM will pose an insurmountable challenge to regime cohesion.

Sudan's national economy is larger and more diversified than that of South Sudan. Yet oil revenues fuel not only the economies of both countries, but also various political patronage mechanisms. This is why both parties urgently needed to resolve issues related to oil revenues following the secession of the South. This urgency helped trigger the crisis around Khartoum's confiscation of oil in December 2011 and the subsequent shutdown of oil production by South Sudan in January 2012. Increasing economic difficulties pushed the parties towards an agreement in September 2012. In June 2013 Khartoum threatened to stop the transport of oil through its pipelines, but the threat was withdrawn a few days before the September 6th deadline that Khartoum had set. Parallel to these negotiations, both parties are trying to reduce their dependency on each other: Sudan is exploring new oil fields and South Sudan is looking for alternative routes for transporting its oil to an international harbor. But for the time being their economic interests are closely intertwined, since neither can afford to be without the oil income for more than a short period of time.

The steady flow of oil revenues, as well as other revenues, is crucial for each state's autonomy and capacity to withstand foreign interference in their internal affairs. Compared to Sudan, South Sudan is still more vulnerable to pressure and interference from external parties both within the negotiations framework and in foreign affairs more generally. Before July 2011 both parties were susceptible to such pressure, because they were still committed to the CPA and the South's secession was still at stake. Today, South Sudan is less constrained in the negotiations than before, but it is still the most likely to bow to external pressure. One reason is that it needs external technical and administrative resources to run its state apparatus and

improve its military. While it is not as dependent on external aid as some observers would have it, the consequences of a reduction in such assistance are difficult to predict.

The degree to which an independent South Sudan has changed regional dynamics is reflected in how external actors approach the two countries and their changing roles in the negotiations. The CPA framework shift to the AUHIP is symptomatic of this realignment: the Sudan issue has ceased to be a war and a humanitarian crisis to be resolved by the “international community” and has instead become one of the many uneasy bilateral relations between African states. The countries involved in the negotiations between the two countries in general have significantly changed their approaches following South Sudan’s referendum, with a general downscaling of involvement.

The referendum has also resulted in new relations between the two countries and their neighboring countries. Ethiopia has managed to maintain relatively good relations with both countries. On the other hand Kenya and Uganda have more openly sided with South Sudan. Eritrea remains uncommitted. There has been an interesting change in Egypt’s approach. Before 2011 Egypt was an uncompromising ally of Khartoum, but South Sudan’s secession coincided with the Arab Spring, and domestic challenges have since crippled Egypt’s foreign policy apparatus. Yet the imperative of protecting its upstream interests in the Nile and gaining influence in riparian countries has compelled Egypt to make overtures towards South Sudan and to adopt a more balanced approach. A somewhat similar process has taken place with regard to China, which, for reasons of protection of its oil interests, which are now split between the two countries, and in general pursuit of a combined political and economic expansive agenda in Africa, has also changed from a one-sided approach to an attempt at balancing its interests in

Sudan and South Sudan. Chad and Libya have remained aloof. Additionally, South Sudan's secession has not had much impact on their relations with Khartoum.

External parties involved in the negotiations stress that they are not mediators, only facilitators. They maintain that the parties themselves are responsible for finding solutions to their disputes. The AUHIP continues to emphasize its role as facilitator. Close observers and advisors to the process testify that at least the leader of the panel, Thabo Mbeki, has had an unofficial mediator role¹⁶. This is not only how he is perceived by observers of the process, but a close examination of his role reveals actions that are consistent with that of a mediator (shuttle diplomacy, presentation of compromise solutions, etc.). Stressing the facilitator role is also convenient for the external parties, to avoid losing prestige in the event of failed negotiations. The Troika countries have been more akin to supporters of the process, providing logistical and financial support through the IGAD Transitional Support Unit. The EU has also been an important donor to the AUHIP and, like the Troika countries, has supported the talks with experts in the different areas. The EU has at least contributed to making more difficult the distinction between these two types of actors.

The international realignment has had two important effects. The importance of Sudanese-South Sudanese relations has been downgraded for most of the external factors involved. The exceptions are neighboring countries and China, which all have strong vested interests in peace and stability in the region. The other effect is a strengthening of South Sudan's position. It has become possible for some countries to more clearly express their support for South Sudan than it was when it was part of Sudan, while some of Sudan's stronger supporters have had to balance their patronage.

¹⁶Johnson, D. H. (2010). *When Boundaries Become Borders: The Impact of Boundary-making in Southern Sudan's Frontier Zones*. London: Rift Valley Institute.

South Sudan's secession has raised the stakes of the various border disputes with Sudan and the contested areas between the two countries. There is no doubt that the case of Heglig/Panthau is not only a matter of territorial control and ownership of natural resources, and that ownership of oil resources has played a role. The livelihoods of people in the borderlands and their interaction across the border are also part of the process¹⁷. This issue has been somewhat muddled by the portrayal of local interdependence and the claim that people from both Sudan and South Sudan need access to territories on each side of the border. This is, however, only partly correct as it is to an overwhelming degree the Misseriya and Rizeigat cattle herders in Sudan who are dependent on access to dry-season pastures in South Sudan, while there is no corresponding dependency on northern Sudanese territories among South Sudanese agro-pastoralists¹⁸. The main evidence put forward in the process of solving the various disputes consists of colonial maps and evidence of settlement or use of contested areas, but these are often inconclusive and support overlapping claims.

1.7.4 Prospects for South Sudanese Independence and Sovereignty

South Sudan is in an enviable financial position, as the government has immediate access to billions of dollars of domestic oil resources with which to fund its budget. As a result, the development of its planning and budget system was not shaped by the external conditionalities usually associated with dependence on donor financing¹⁹. Beside the huge financial reserve at its disposal, the Government of South Sudan GoSS is also blessed with a youthful population. With a strong political will and quantitative and qualitative investment in capacity building, a huge pool of young, educated and experienced people will be available for the government to tap into

¹⁷Ibid

¹⁸Rolandsen, O. H. (2013). *Too much water under the bridge: internationalization of the Sudan-South Sudan border and local demands for its regulation*. Basingstoke: Palgrave Macmillan.

¹⁹Davies, F., and Smith, G. (2010). *Planning and budgeting in Southern Sudan: Starting from scratch*. (ODI (Overseas Development Institute) Briefing Paper No. 65.), p. 1

in the near future. Another notable prospect for the independence of the South is the attitude and resilience of its people in the face of adversity. Millions of Southern Sudanese survived on basic food rations in refugee camps during the war with the North. The support that the South received from the international community during and after the conflict with the North has been enormous.

In all the vicissitudes of South Sudan, South Africa has been at the forefront of this support. In the area of capacity building, it should be recalled that during one of its visits to South Africa, an SPLM delegation requested that the South African government assist it by providing human and institutional capacity building in order to train its cadres for the task of governance and service delivery. The request was accepted by the South African government, which through the Department of Foreign Affairs (DFA) and the University of South Africa (UNISA) carried out the capacity-building project. These projects began in 2005 in New Site, Kaopeta County in eastern Equatoria state, in South Sudan and they have served as a platform for senior South African government officials and academics from Unisa to share with the Southern Sudanese government leaders their experiences during the transition period, and to transfer skills that will assist in facilitating various aspects of governance and service delivery²⁰. By the beginning of 2010, the capacity- and institution-building project had trained more than 1 500 officials from the GoSS²¹. The Regional Capacity Building Project is an effort towards strengthening institutional capacity building and improved curriculum development; it is targeted at countries such as Sudan and Rwanda that have recently emerged from conflict situations²².

²⁰Ibid

²¹Department of Foreign Affairs (DFA), (2010). *Achievements of the African Union Ministerial Committee on Post-conflict Reconstruction and Development in Southern Sudan since the chairpersonship of South Africa*.

²²Engelbrecht, L., (2010). *SA to train South Sudan prison guards, judges, lawyers*.

The desire to ensure that peace, security and stability prevail in Sudan has played a major role in South Africa's involvement in that country. As such, in November 2009 the South African Police Service, together with the National Treasury, entered into an agreement with the Norwegian Embassy in South Africa to support a R55-million police-training project in the South Sudan. The objective of this project, which was initiated in 2010, has been to support the South Sudanese in realizing a developed and democratic police service. More than merely assisting in creating a more secure and safer South Sudan, the agreement is an initiative to enhance the reform of the systems of policing to address the post-conflict reconstruction and development agenda in line with the CPA. Various South African government departments have also committed themselves to providing capacity building projects to the Sudan. The Department of Higher Education, for example, has offered scholarships to senior education planners in the South Sudanese Ministry of Education, while the Department of Justice and Constitutional Development has been involved in providing capacity building in the areas of justice and constitutional development²³.

There has also been significant commitment from South African civil society in advancing efforts to create a conducive environment for peace building in the Sudan²⁴. South African academic and research institutions have contributed immensely through their research studies and their hosting of seminars and workshops on the peace process in Sudan. The institutions concerned include the African Constructive.

The seminars and workshops were used as a platform to engage Sudanese political actors, activists and academics on their country's political challenges and also to share their views with the South African audience and suggest intervention strategies. Some of these discussions and

²³SOSA News, (2010). *Thabo Mbeki AU Envoy: Assured North Sudan not less African than S. Sudan.*

²⁴Ibid

brainstorming sessions were communicated to the IGAD secretariat, so that they could be taken further in order to influence the peace process. Furthermore, some of these organizations have conducted empirical research in different parts of Sudan, resulting in valuable publications on that country's possible conflict resolution strategies. Other organisations, such as those in the fields of human rights and religion, have also played an important role in highlighting human rights abuses and other conflict-related issues occurring in what was known as Africa's largest country – the Sudan²⁵.

Other interventions that South Africa has made with regard to the Sudan include its contribution to the United Nations–African Union Mission in Darfur (UNAMID) troops in the Darfur region as well as sending out delegations under the AU banner to observe the South Sudan referendum. Also worth noting is that South Africa's post-conflict reconstruction and development efforts have served to attract valuable interest from the international community and donors, who have expressed a desire to collaborate in trilateral partnerships²⁶. For example, in 2010 the governments of Germany and Southern Sudan, together with that of South Africa, entered into a trilateral partnership with the objective of training correctional services officers, judges and legal affairs personnel in South Sudan²⁷.

Yoh²⁸ notes that South Africa has become 'the closest friend of Sudan' due to its approach to creating a conducive environment for a peaceful resolution. This close relationship has been largely due to South Africa's ability to make its intervention available when its

²⁵Ibid

²⁶Diogo, L. D., and Mazimhaka, P. (2010). *Everything is at zero': Beyond the referendum – drivers and choices for development in Southern Sudan*. (Brenthurst Foundation Discussion Paper). Available at: http://us-cdn.creamermedia.co.za/assets/articles/Attachments/30840_brenthurst_paper_2010-05.pdf. [Accessed 22 June 2014].

²⁷De Kock, P. (2011). *The gravity of relations between Juba and Khartoum*. *The Thinker*, 24, p. 13.

²⁸Yoh, J. G. N. (2012). *South Africa's policy towards Sudan*. Available at: <http://johnyoh.com/pdf/South%20Africa's%20foreign%20policy%20towards%20Sudan.pdf?PHPSESSID=r1femrjaitc5ennhn2jls9o4q4>. [Accessed: 20 May 2014].

assistance was greatly needed by the Sudan. A key point to note is that South Africa has throughout its intervention process maintained neutrality in its dealings with both the North and South regions. Furthermore, South Africa had the advantage of addressing the challenging task of chairing the AU efforts to rehabilitate the war-affected areas in the Sudan. A factor that makes South Africa stand out, however, is that it has shown that simply bringing about peace in Sudan is not enough; rather what is of critical importance is ensuring that the peace is sustainable, as has been demonstrated through its capacity-building initiatives in this northeastern African country which has just emerged from a civil war. The Sudan itself has on a number of occasions acknowledged its appreciation of South Africa's leadership efforts towards regional conflict resolution and peace building²⁹.

1.7.5 Oil, Arms and Economics

The wake of the referendum led to intensification of acrimony and threats. Additionally, violence erupted in certain border regions. The main reasons for the conflicts were based on disputes over the control of land, economic competition, and conflicting interpretations of the boundary divisions between the two countries. Two border regions that are currently sites of extensive hostility, resulting in extensive casualties and large-scale displacement, are the Nuba Mountains and the Blue Nile. For the conflicts in both regions the protagonists are the Government of South Sudan and South Sudan People's Liberation Movement-North (SPLM/N)³⁰. SPLM-N receives military support from SPLM from South Sudan. The major source of the hostility centers on the mis-interpretation and incorrect implementation of the CPA. While the agreement calls for disarmament by the government of South Sudan of SPLM-North

²⁹Sapa, (2009). *SA to assist peace effort in Sudan*: Zuma. Available at: <http://www.timeslive.co.za/news/article216326.ece>. [Accessed: 28 March 2011].

³⁰Brosché, J., and D. Rothbart, G. (2013). *Violent Conflict and Peacebuilding*: The Continuing Crisis in Darfur, Routledge Press.

in 2012, the government sought to impose this measure prematurely in 2011. Yet, the Government of South Sudan has political control of both regions.

Two other border conflicts are known as Kafaia Kingi in South Darfur and “14 Mile” in East Darfur. In both cases, the Sudan Armed Forces clashed with SPLM/N. Currently, the Kafaia Kingi region is controlled by the government of South Sudan; “14 Mile” is controlled by the Government of South Sudan.

These struggles over boundary divisions, however, mask a deeper set of disputes over a vital natural resource: oil. The contestation of oil (its access, control, and economics) erupted into violence in four regions: North Kordofan, the Blue Nile, Abyei, and the Heglig Oilfield. The collective impact of the violence in these regions resulted in thousands of fatalities, massive displacement of civilians, and gross human rights violations committed by both sides³¹. A region of intense conflict, Abyei is the richest oilfield for both countries, with an area of 10,460 square kilometers. Before the 2011 referendum, it had “special administrative status” within the CPA, due to a protocol of 2004 on the Resolution of the Abyei Conflict³². The major parties reached out to the International Court at The Hague for arbitration after negotiations over control of this disputed area stalled. The Court rendered its binding decision on July 22, 2009 regarding the boundaries for Abyei. The court ruled that neither country will have political control over Abyei and that the region would be governed by the Presidential Commission that was formed in 2005 as part of the CPA.

When the South was building momentum for its anticipated succession, the Government of Sudan launched a large-scale military assault that was meant to take control of the oil-rich

³¹Brosche, J. (2011). *The Crises Continue Sudan's Remaining Conflicts*. Working Paper no. 41 Milan, Italy: ISPI. October 2011. Available at: www.ispionline.it/it/documents/WP41_2011.pdf (accessed May 18, 2014).

³²*The Interim National Constitution of the Republic of the Sudan*. July 13th 2005. Available at: http://www.mpil.de/shared/data/pdf/inc_official_electronic_version.pdf

border area of Abyei. This was despite this violent provocation. The South refused to engage in the violence, mindful of its own military weakness and political fragility. By end of May, 2011, the Sudanese Armed Forces had maintained an occupation in Abyei for 3 days. The occupation proved to be devastating to civilians, causing extensive casualties, displacement, and looting of property. In the end, a settlement was reached with Sudan agreeing to withdraw from the area and replace the military with Ethiopian peacekeepers³³.

Heglig oilfield is also experiencing conflict. The region is currently under the political control of the Government of Sudan. South Sudan fully suspended its oil production On Friday, January 20, 2012. This was following disputes over transit fees for the passage of oil through Sudan to the Port of Sudan, a vital route for export of oil from both countries. The Minister of Information in South Sudan by then, Barnaba Marial Benjamin accused Khartoum of misappropriation of funds and of imposing unreasonable transit fees³⁴. The Government of Sudan declared that South Sudan was overdue in its payment of tolls, and appropriated South Sudanese oil. This action was considered by the nation as an act of piracy and a flagrant violation of international law³⁵. Sudan demanded a passage fee of 26 Sudanese dollars per barrel, while South Sudan maintained a proposal of 70 cents per barrel. On Tuesday, April 10, 2012, The SPLM/A expelled the Sudanese Armed Forces from this region and shut down the Heglig oilfield. Sudanese President Omar Al-Bashir retaliated by suspending trade with South Sudan. He also declaring a state of emergency in three Border States: South Kordofan, White Nile, and Sennar. The Sudanese parliament declared Southern Sudan an enemy of Sudan³⁶.

³³Brosché, J., and Rothbart, D. (2013). *Violent Conflict and Peacebuilding: The Continuing Crisis in Darfur*, Routledge Press.

³⁴Ibid

³⁵Bartlett, B. (2008). The Power to Name in Darfur. *Peace Review: A Journal of Social Justice*, 20–2. New York: Routledge.

³⁶Johnson, H. (2011). *Waging Peace in Sudan: The Inside Story of the Negotiations That Ended Africa's Longest Civil War*. Sussex Academic Press.

The decision to shut down oil production had serious consequences for both countries. This is based on the fact that oil production represents 98% of treasury revenue for South Sudan³⁷. This loss resulted in rampant inflation and severe limits on access to essential material resources for the population. Sudan experienced similar hardships, as runaway inflation and a thriving black market eroded their economy. For Sudan, this oilfield was the source of approximately 60 thousand barrels of oil per day, more than 50% of the nation's oil production³⁸.

The Sudanese government responded to the effects of the shutdown by launching an economic war against its neighbor, with results that were counter-productive at best. Officials imposed carrier fees to use the pipeline, which limited trade, and the frequent border closures imposed by Sudan reduced the flow of goods between the two countries³⁹. To tackle its budget deficit, Sudan's government cut fuel subsidies in June, which reduced by three-quarters the country's oil output, causing high inflation. Opposition protests erupted in parts of Sudan after the spending cuts, including calls for regime change, but subsided after a security crackdown during the holy month of Ramadan⁴⁰.

1.7.6 A Fragile Peace in South Sudan

The United Nations Security Council On May 2, 2012 adopted resolution 2045, calling for an immediate halt to fighting between Sudan and South Sudan. With this resolution, the Council gave both countries an ultimatum, either resolve the conflict or face sanctions until August 2, 2012. Despite the fact that the conflict continued beyond this date, the UN did not impose these sanctions, believing at the time that such measures might hamper ongoing

³⁷IGAD. (2002). *Secretariat on Peace in the Sudan*. Machakos Protocol. July 20,

³⁸Ibid

³⁹Mousa, M. (2010). *The Role of the Tribes Seeks to Achieve Peaceful Coexistence at some point After the Secession of Southern Sudan*. Khartoum University Press

⁴⁰Johnson, H. (2011). *Waging Peace in Sudan: The Inside Story of the Negotiations That Ended Africa's Longest Civil War*. Sussex Academic Press.

negotiations⁴¹. As one step towards peace, Sudan and South Sudan agreed on September 27, 2012 to establish a demilitarized zone on the border and to resume oil exports from the South through the territory of Sudan. Yet, long-standing disputes between the countries remained unresolved.

The issue of nationality of citizens of the South after its independence is among the concerns. The Sudan government rejected the principle of dual citizenship. This is regardless of the Constitution of Sudan providing the ability for Sudanese citizens to acquire the nationality of another country⁴². Another dispute is based on the right to residency of Southern citizens living in the North. A decree by the government of Sudan declared that all southerners living in the North must return to their ancestral homeland⁴³. Hundreds of thousands of Southerners living in the North were actually born and raised in the North, and many who have returned to the South did not participate in the referendum for the self-determination of South Sudan. Some sought to unify the North and South. Others are students still studying in different levels of education or were leaders in the ruling regime. Alongside the fallout from these decisions about nationality and repatriation, there are some issues that directly affected Southern citizens, such as suspension of trade with South Sudan, which rendered staple goods unaffordable for most people.

1.8 Theoretical Framework

This study applies social identity theory. This theory is based on psycho-social studies following an attempt to understand the pattern of relations and development of particularism

⁴¹Natsios, A. (2012). *Sudan, South Sudan, and Darfur: What Everyone Needs to Know*. Oxford University Press.

⁴²Brosché, J., and D. Rothbart (2013). *Violent Conflict and Peacebuilding: The Continuing Crisis in Darfur*, Routledge Press.

⁴³Ibid

among competing groups. It was developed by Tajfel and Turner⁴⁴ in 1979 in a research to establish the basis for group conflict and competition. The social identity theory postulates that negligible conditions of categorization are enough to lead members of a group to discriminate in favor of an in-group against others. This is In contrast to the belief that individualism is the basis for competition. SIT seeks to establish that there are competing levels of personal social identity, one of which is the desire to belong to a group or alternatively the desire to associate with certain sect of a society.

Tajfel and Turner⁴⁵ sought to understand the causal spark of competition or personal distinction between members of one group against another or all others excluded by the differentiation. They found that, competition does not necessarily have to be founded on benefits derivable from being in a social strata, hierarchy or class, but mere individual attachment to a group could initiate the move. The perceived members of an 'in-group' probably might have nothing in common in terms of shared heritage and background but for the fact of group classification from others is enough bases for group-self-awareness. This is what they termed the 'minimal condition' i.e. slightest condition not beneficial to any individual in a group but capable of creating in-group favoritism against others. This could then create the impetus for the search for positive group self-esteem for the in-group to properly position and pitch its tent against all others in the perceived periphery.

One critique of the SIT is that it appears too artificial to stand alone in explaining the root cause of conflict between ethnic groups. In a sense it does not say anything tangible on the root cause of conflict among groups except that conflict is imminent by default. The idea may not be wrong especially when we consider the Marxian dialectic materialism of thesis and anti-thesis,

⁴⁴Tajfel, H., and Turner, J. C. (1986). *The social identity theory of inter-group behavior*. In S. Worchel and L. W. Austin (eds.), *Psychology of Intergroup Relations*. Nelson-Hall, Chicago.

⁴⁵Ibid

which are constantly in a warring state vis-à-vis in-group versus out-group tension. The SIT decided to shy away from the conflict within the in-group which are sometimes unpronounced basis of some protracted conflict and division. This study highlights identity as a basis of conflict among group and with the extension of the thesis by other scholars, a basis of group conflict is established in relation to material motivations (resource control) beyond the slightest identity conditions of social categorization, which are usually human construct and stereotypes.

1.9 Methodology

1.9.1 Data Collection

The study sought external desk research technique. This involves enlisting outside resources as data collection instruments. Outside resources such as online desk research which consists of two approaches when digging out the relevant information from the internet. The first approach was to browse directly specific information from online sources, news reports and published articles while extracting information from these sites. Second approach constituted various search engines like www.google.com among others for controlled searching of information.

The most vital issue in the above research design was to ensure refined searching techniques in a way that the results found were promising and relevant. Government published data- Governments usually post a great extent of information online. The government websites were mostly free to access thus proving to be the cheapest means of gathering the information.

1.10.2 Data Analysis

The study conducts a qualitative data analysis method approach that was both theoretical and empirical in form. The study sought to understand the rationale behind the real-life issues in the Sudan problems and process of decision making of the CPA. Therefore, empirical content

was seen through theoretical and conceptual lens and an interplay of how theoretical understanding of conflict resolution, mediation and peace agreement implementations bring to bear much influence on real life and attitudinal debates around the negotiation and implementation of the CPA. The style to be employed in consideration for accepted knowledge for data analysis was called interpretivism in the class of Anti-positivist school.

1.9.3 Data Presentation

Data is presented in descriptive and prescriptive ways. Analyzed data is also presented in chapter form according to the study objectives.

1.10 Chapter Outline

This study is organized around five chapters as described below.

Chapter One: Introduction and Background To The Study.

This chapter is a background information on post referendum issues in South Sudan looking into the perspectives and pitfalls. The chapter presents the problem and the objectives of the study. The chapter sets the study hypotheses, reviews relevant literature and presents the theoretical framework within which it is anchored. The chapter finally presents the methods used to undertake the study and outlines its organisation.

Chapter Two: An Overview of Post Referendum Issues in Post-Independence Sudan.

There are still key issues that remained and which remains the subject of the AUHP but also with independence came new issues which are the subject of this chapter. This chapter discusses issues on borderline belt, sharing of resources, Abyei, South Kordofan State and issues of relations with international community.

Chapter Three: Pitfalls of Post-Referendum Negotiations on Nine Cooperation Agreements between South Sudan and Sudan.

The chapter discusses the pitfalls of the mediation process on nine cooperation agreement that were signed in September 2012 led by former South African president Mbeki. It discusses Post-Referendum external actor's realignment, the Strength of the Mediation Process and the Weakness of the Mediation Process.

Chapter Four: The Prospects and Pitfalls of Peace and Stability in Post-Independence South Sudan

This chapter investigates the pitfalls of peace and stability in post-independence South Sudan. The prospects covered in this chapter are: IGAD peace process and Mbeki panel; the continued positive role of the international community; the role of the US and the fear of spread for extremist; South Sudan fatigued with war and just want peace; and lessons for South Sudan as a young Nation from other Countries. The challenges covered are: The flagging IGAD peace process and internalization of the conflict; inevitable relationship with the North; security challenges; threat of insurgency in the new state; and the challenge of peace process without trust.

Chapter Five: Conclusion and Recommendations

This chapter presents the conclusions and recommendations to the study. The conclusions are arranged according to the study objectives and questions which are linked to the hypotheses of the study.

CHAPTER TWO

AN OVERVIEW OF POST REFERENDUM ISSUES IN POST INDEPENDENCE

SUDAN

2.0 Introduction

There are still key issues that remained and which remains the subject of the AUHP. However, with independence came new issues which are the subject of this chapter. This chapter discusses issues on borderline belt, sharing of resources, Abyei, South Kordofan State and issues of relations with international community.

2.1 The Borderline Belt

There are five major border areas are in dispute. The first, and most potentially explosive, is based on the oil-producing region of South Kordofan, Blue Nile and Abyei⁴⁶. The region has not decided whether to join the South or the North. The borders were outlined based on a ruling by the Permanent Court of Arbitration at The Hague in July 2009. However, demarcation has stalled. Additionally, the northern Misseriya community was largely drawn out of Abyei. This was under the new borders had denounced the ruling.

According to SPLM Pagan Amum, former secretary-general, four other areas are in dispute. These include the northern-most border separating Renk county in Upper Nile from the borderline running north-south between the South's Unity States, North's White Nile state, and the North's Southern Kordofan, whether the Bahr al-Arab river forms the exact border between the South's Bahr el-Ghazal and Darfur in the North, and which river forms the exact western-most dividing line between Western Bahr el-Ghazal and Southern Darfur⁴⁷. An estimated over

⁴⁶The Pioneer, (2011). *Times when Garang's optimism almost snapped*, P.3-4

⁴⁷Interview with Pagan Amum, «Al-Sharqal-awsat», June 9, 2010.

80% of the oil fields are in the South (depending on where the border is drawn)⁴⁸. The sole export route for the landlocked South is a pipeline running to the north to Port Sudan on the Red Sea. Under the CPA, the two sides divide proceeds from oil pumped in the south. Additionally, they will have to negotiate how to share oil revenue. This is also inclusive of any user fees levied against the south for using the pipeline and refineries. The two parties have to negotiate how to honor current oil contracts.

Sudan and South Sudan governments signed an agreement in October 2011 in relation to border security. This stipulated the establishment of 10 border corridors that were meant to ease the movements of citizens between the two countries, as, Abdul Rahim Mohammed Hussein, the Sudan Minister of Defense told journalists, after meeting with his South Sudanese counterpart⁴⁹. This marked the first time for the two countries to sign an agreement over the borders since South Sudan independence in July 2011. The Minister disclosed that establishing the corridors aims at easing the interconnection between the people of the two countries, affirming that the concerned parties in both countries will continue their work in the demarcation process⁵⁰. The South Sudanese Minister of Defense described the meeting as successful adding that it is the first meeting between the two countries to discuss the bordering issues. They stated that the good relations between the two nations⁵¹.

⁴⁸Saeed, A. (2010). *Strained Livelihoods Conditions of Pastoralist and Farming Communities in Southern Kordofan, Sudan: Persistent Contentions and Emerging Challenges for Better Future*. Discussion item presented to the Cairo Papers Symposium on Agrarian Transformation in the Arab World.

⁴⁹Obeid, H. A. (2005). *Anglo-American Studies of Tribal Law: Concepts and Methods*. Sudan: Gezira Printing and Publishing, 2005.

⁵⁰Ibid

⁵¹Galal el-Din el-Tayeb, (2006). *Land Issues and Peace in Sudan*. Khartoum: Sudanese Environment Conservation Society, 2006.

According to Johnson⁵², South Sudan's secession has raised the stakes of the various border disputes with Sudan and the contested areas between the two countries. There is no doubt that the case of Heglig/Panthau is not only a matter of territorial control and ownership of natural resources, and that ownership of oil resources has played a role. The livelihoods of people in the borderlands and their interaction across the border are also part of the process. This issue has been somewhat muddled by the portrayal of local interdependence and the claim that people from both Sudan and South Sudan need access to territories on each side of the border. The main evidence put forward in the process of solving the various disputes consists of colonial maps and evidence of settlement or use of contested areas, but these are often inconclusive and support overlapping claims.

Abyei is ethnically, politically and geographically caught between Sudan and South Sudan. Abyei is mainly dominated by two large tribes – the Ngok Dinka, which is mainly African Christian and pro-South Sudan, and the Misseriya, which is largely Arab Muslim and pro-Sudan. Both the Dinkas and Misseriya compete over the issue of rights to the territory and the right to grazing and water resources. The Abyei area is also rich in oil resources and there are the fears that if this issue remains unresolved for long it could provoke both the neighbors to another war.

Johnson⁵³ explains that the question of Abyei's borders and whether it is a part of Sudan or South Sudan is for historical reasons treated separately in the negotiations, but it is closely linked with the other border disputes. It was decided during the CPA negotiations that the future of Abyei was to be determined by a referendum that was supposed to take place at the same time

⁵²Johnson, D. H. (2010). *When Boundaries Become Borders: The Impact of Boundary-making in Southern Sudan's Frontier Zones*. London: Rift Valley Institute.

⁵³Johnson, D. H. (2008). *Why Abyei matters: the breaking point of Sudan's Comprehensive Peace Agreement?* African Affairs, 107(426): 1-19.

as the one for South Sudan. The discussion during the interim period was therefore over what exactly constituted Abyei and its population, and who would be allowed to vote. It was furthermore assumed that the main source of contention over Abyei was ownership of oil and oil revenues from the area, and hence that the 2009 ruling of the International Arbitration Court in The Hague would resolve the issue. Oil proved to be less significant than was assumed, and because the secession of the South is now a fact and the referendum has still not been held, the issues around Abyei have become a mixture of national prestige, border determination and local antagonism.

2.2 Sharing of Resources

South Sudan is a resource rich country with substantial natural resources in plant and animal production. It holds one of the highest reserves in gold and uranium in the world and its mining sector can bring huge investments and in turn creates employment opportunities. More importantly, South Sudan has a large quantity of oil reserves. These natural gifts suggest that the country has the means to become prosperous.

2.2.1 Oil and Revenues

The sharing of oil revenue is an important contestation. Both the North and South Sudan depend heavily on oil revenues, and independence alerted resource ownership and current wealth-sharing arrangements⁵⁴. Oil was not addressed in great detail in the CPA talks. There should have been some level of agreement before the referendum, not only because both economies need uninterrupted revenue, but also in order to sustain the confidence of oil companies in their existing investments.

⁵⁴Sudan Economic Report, (2009). *Oil is responsible for roughly 60% of the Government of Sudan's revenues*, Bank Audi sal-Audi Saradar Group, December 2009.

South Sudan possesses roughly 75 percent of oil reserves and the Sudan or North Sudan has the refineries and pipelines that could help both countries benefit fairly from the oil⁵⁵. For South Sudan, the importance of oil rises as it is a new country and its government badly needs money. However, its government is giving a tough time to its neighbor on this “multi-billion dollar oil issue”.

The South possesses no infrastructure to sell its oil on the world market, as all of these are located in the North. The regions do not have paved roads, making it impossible for trucks to carry its oil, and there is no pipelines connecting its oil fields to other countries. Hence, the issue of wealth sharing might prove to be difficult to negotiate, and the destiny of Sudanese oil exploration unclear.

Perilously, the territorial division proposed by the referendum runs along the conflict lines of the three decade civil war, a historical fact which weighs on the relationship between both players. Due to the heavy militarization of the border, even small skirmishes might trigger a broader conflict, especially around the town of Abyei which is supposed to have its own referendum to decide whether to stay with the North or the South.

Currently South Sudan is totally dependent on Port Sudan located in the North⁵⁶. Therefore, for the next five years South Sudan will have to rent the Northern oil pipeline, refineries and facilities at Port Sudan to sell its oil. South Sudan officials insisted that building an oil pipeline through Kenya to the Indian Ocean may be more cost effective than paying the transport and refinery fees demanded by North Sudan. Furthermore, under a 2005 peace deal South Sudan shared its oil wealth 50-50 with Khartoum for six years. Since southern

⁵⁵African Union, (2010). *African Union High Level Implementation Panel on Sudan*, Khartoum.

⁵⁶De Kock, P. (2010). *Thabo Mbeki and the ‘long talk’ to southern Sudan’s referendum*. South African Institute of International Affairs Policy Briefing no. 25. Johannesburg: SAIIA.

independence a new deal has been hard to come by. Sudan's president has threatened not to allow South Sudan to use its infrastructure unless it pays \$32 a barrel⁵⁷.

South Sudan, which began negotiations by offering less than half a dollar per barrel, says it will not accept customs fees above \$7 per barrel for oil from new oil fields and \$4 per barrel from existing ones. If not handled diplomatically this could trigger a wave of unrest, raids and attacks on the South.

2.2.2 The Nile Waters

The Nile is the longest river basin in the world stretching about 6,825 km (about 4,320 miles). It is estimated that the Nile River carries 84 billion cubic meters of water. The Nile has ten riparian states: Burundi, Egypt, Ethiopia, Eritrea, Kenya, Democratic Republic of Congo, Rwanda, Sudan, Tanzania, and Uganda. The birth of the new state affected the political dynamics of the Nile countries by becoming the eleventh riparian state that shares the Nile water. This increased regional competition for the same water⁵⁸.

About 14% of the Nile waters pass through Southern Sudan to the north and Egypt. Some billion cubic meters more could be extracted from the Southern Sudan where it is currently lost to evaporation. Yet the CPA does not deal in any detail with Nile waters. Despite the CPA's neglect of Nile waters, recent developments have led six of the upper riparian states including Ethiopia, Kenya, Rwanda, Uganda, and Burundi to sign the new Nile water sharing agreement known as the Cooperative Framework Agreement in Entebbe, Uganda on May 14, 2010⁵⁹. Upon its ratification by the respective legislatures of the signatory countries, the CFA binds all

⁵⁷Schomerus, M., & Tim, A. (2010). *Southern Sudan at Odds with Itself: Dynamics of Conflict and Predicaments of Peace*. London: London School of Economics and Political Science.

⁵⁸Rolandsen, O. H. (2013). *Too much water under the bridge: internationalization of the Sudan-South Sudan border and local demands for its regulation*. In Christopher Vaughan, Mareike Schomerus & Lotje de Vries, eds. *The Borderlands of South Sudan: Authority and Identity in Contemporary and Historical Perspectives*. Basingstoke: Palgrave Macmillan.

⁵⁹Arsano, Y. (2011). *Negotiations for a Nile-Cooperative Framework Agreement*, in ISS Occasional Paper 222, p. 5.

members of the Nile Basin Initiative (NBI). The Nile Basin Commission is established upon ratification of the CFA instrument by a majority of six member states⁶⁰. This has made it inevitable that Nile waters issues be included in the post-independence arrangement.

Another area of concern for South Sudan, Sudan and Egypt alike IS the resumption of work on the Jonglei Canal. After the initial implementation on the 1978 project and after two-thirds of the canal had been dug, a series of SPLA attacks forced suspension of the work in 1984. The emergence of the South as an independent state has a dramatic effect.

The Undersecretary of the Ministry of Water Resources highlighted that the Nile water issue can only be tackled effectively through regional and international cooperation and a continuous efforts by individual states⁶¹. The Nile Basin states should enter negotiations to divide the Nile to everyone's benefit and to support cooperation over common interests. South Sudan is committed to cooperate with Egypt and North Sudan and Ethiopia on a project-by-project basis. South Sudan believes that this can be achieved as a parallel approach⁶².

A water crisis may well develop between North and South. Once agricultural projects in the South are rehabilitated, they will need water. Water consumption would also increase with the return of displace people and refugees. Southern Sudan will not be able to change the facts of geography, nor the direction of the flow of the Nile River, nonetheless their position will have a tremendous impact on the politics of the Nile and the disputed sharing of Nile waters. Sudan, Egypt and the group of upstream countries would all work hard to bring the new state into their camp.

⁶⁰Ibid.

⁶¹Schomerus, M., & Tim, A. (2010). *Southern Sudan at Odds with Itself: Dynamics of Conflict and Predicaments of Peace*. London: London School of Economics and Political Science.

⁶²Ibid

2.3 Abyei Area

Abyei is Located between Northern Bahr al Ghazal, Warrap and Unity states to the South and Southern Kordofan to the North. It is geographically, ethnically and politically caught between North and South. It is home to the Ngok Dinka, while Misseriya nomads migrate seasonally through the territory. The Misseriya belong to a group predominantly Arab Muslim, named Al Baggara. The Dinka Ngok belongs ethnically and racially to the South, and is predominantly Christian⁶³. Abyei has long been and remains a flash point, where land, nomadic grazing rights, security and oil contribute to volatility. By way of a protocol, the CPA granted the disputed territory special administrative status under the presidency and its own January 2011 referendum to decide whether to continue that status within the North or become part of the South which is now postponed indefinitely⁶⁴. Just as Abyei threatened to spoil CPA negotiations in 2004, it became clear the issue might prevent an agreement on post-independence arrangements if left unresolved.

The main part of the disputed area consists of a network of waterways flowing into the Bahr el-Arab on its way through Kordofan into the Bahrel-Ghazal. The heart of the area is where the Ngok Dinkahave had their permanent settlements for more than two centuries. Its pastures are used in a seasonal rotation by both the Ngok Dinka and the Humr section of the Misseriya Baggara Arabs, who move south from their main settlement areas at Muglad and Babanusa⁶⁵.

The Ngok and the Misseriya both entered Kordofan from different directions in the eighteenth century, occupying two distinct ecological zones. The Ngok were part of a broad

⁶³Abdalla, M. A. (2010). *Abyei Natural Resources Conflict Situation Report*, Institute for Security Studies, p. 1.

⁶⁴Crisis Group Briefing, *Defining the North-South Border*, September 2, 2010.

⁶⁵The Misseriya are divided into two main sections: the Humr ('red') and Zurg ('black') Misseriya. They were united under the paramount nazirship of BabuNimr in 1942, but it is the Humr, rather than the Zurg, who share the pastures and waterways of the Abyei Area with the NgokDinka. Ian Cunnison, 'The Humr and their land', Sudan Notes and Records 35, 2 (1954), pp. 50–1.

migration of Padang Dinka who moved westward along the Bahr el-Ghazal, while the Baggara trace a migratory movement along the savanna belt from Wadai through Darfur and Kordofan.⁴ According to K. D. D. Henderson's standard history of the Humr, published over a quarter of a century before the area became disputed, the Ngok were well established in their area along the Ngol (Ragabaez-Zarga), Kiir (Bahr el-Arab), Nyamora (Ragaba Umm Bieiro) and Lau by the time the Humr reached Muglad, and sections of Ngok even assisted them in seizing control of the area from the indigenous Shatt⁶⁶.

The Machakos Protocol signed in July 2002 established the framework to be followed in the CPA for the establishment of a Government of the Southern Sudan and a referendum on the future of the South. It left unresolved the question of the areas immediately bordering the South where the SPLA was also active: the Blue Nile, Nuba Mountains and Abyei. When negotiations resumed later in 2002 the SPLM raised the issue of the Three Areas (as they became collectively known), and it was eventually agreed that a resolution of the issues surrounding the Three Areas would be included in a final comprehensive peace. The first meeting on the Three Areas was supposed to take place in Kenya in January 2003. The SPLM sent a full negotiating delegation, but the government did not, announcing instead that they would send a team only to take notes and report back. A second round of talks in February that year was no more conclusive, as the entire time was taken up with wrangling over procedural issues. In the end the seemingly more difficult issues of security, power sharing and wealth sharing were all resolved before the protocols on the Blue Nile, Nuba Mountains and Abyei were signed in May 2004.

⁶⁶Henderson, N. (2012). *Migration of the Messiria*, pp. 55–63. There has been no detailed historical research in the area, drawing equally on oral testimony from the Ngok and Humr, since Henderson's time. Henderson's article was frequently cited as evidence to the ABC by both sides in the dispute (not always accurately), and was accepted as a baseline for pre-twentieth century history. Given the highly public and vigorously contested versions of the past the Ngok and Humr gave, it is unlikely that a more thorough collection of oral testimony will produce a more neutral record any time soon.

Moreover, Misseriya feared that secession of the South possibly including Abyei could result in a loss of grazing rights, thereby threatening their way of life that was practiced for centuries. Some in Khartoum have stoked such concerns and encouraged the Misseriya to fight for participation in the Abyei referendum. The conflict involves the Dinka Ngok ethnic groups supported by the SPLM and the Misseriya ethnic groups supported by the government of Khartoum⁶⁷. The two groups compete over which has rights to the territory and essentially the right to grazing and water resources.

While conflicts between these groups were managed relatively successful in the past through customary land tenure systems, this is less and less the case today as a result of larger herds, reduced water and pasture, instability and prejudices stirred up by the war, and a proliferation of arms among herders⁶⁸. In addition, patron-client politics, weak natural resource management and development policies, and top-down government institutions have encouraged ethnic polarization and social divisions.

The Abyei issue is considered the key point to a lasting peace between North and South Sudan⁶⁹. Abyei is a fertile region that has oil deposits between North and South Sudan. However, Abyei's future is very much up in the air, and observers worry the region could again erupt in civil war. Fear is pushing the Ngok Dinka, the town's dominant ethnic group, to consider declaring Abyei part of the South, even though they know that such a move might provoke the North to try to take Abyei by force.

⁶⁷Kevin, O. C. H. (2002). Dar rights among the nomads: an arbitral award, *Sudan Law Journal and Reports* 5 (1960), pp. 336–7; GaimKibreab, *State Intervention and the Environment in Sudan, 1889–1989: The demise of communal resource management* (Edwin Mellen Press, New York, 2002), Chapter 4.

⁶⁸Kibreab, *State Intervention*, Chapter 5. Documents on the Rizeigat–Malwal dispute can be found in the National Records Office, Khartoum, Civsec I 66/4/35 vol. I.

⁶⁹Douglas, H. J. (1983). Tribal boundaries and border wars: Nuer–Dinka relations in the Sobat and Zaraf valleys, c. 1860–1976, *Journal of African History* 23, 2 (1982), pp. 183–203.

The 2005 peace agreement, which ended the war, promised the people of Abyei their own referendum on whether to be part of the North or South. The Abyei referendum was supposed to be held simultaneously with the main Southern referendum⁷⁰, but the two sides failed to agree on who was eligible to vote. As a result, the Abyei referendum has been postponed indefinitely. Currently, the situation in Abyei has the potential to degenerate into conventional armed confrontation with increased force mobilization by the armed forces of the North and South. However, there is real concern that the conventional forces can be drawn into a stalemate position and militias and other spoilers are used by both Khartoum and Juba to perpetrate violence in an effort to influence the political situation⁷¹.

Following clashes in January 2011 between Missiriya militia forces and a Joint Integrated Police Unit (JIPU) that left over 30 dead, two meetings were organized to improve the situation⁷². The first was held on January 13, 2011 between Missiriya and Ngok Dinka elders to discuss migration routes through the area. The elders agreed in principle that the Missiriya would be allowed to pass through Abyei in search of pastures as long as blood compensation was paid for Ngok Dinka deaths that occurred during the last migration season and migration routes through the area. As of the beginning of March 2011, the Misseriya offered to pay the compensation, but there was no agreement on the grazing routes⁷³. Despite this, Missiriya continued entering Abyei and are currently grazing their cattle around the Ragabaes Zarga, a river running through the territory, approximately 30 km from Abyei town. As they press further south, the absence of a grazing agreement will become increasingly problematic.

⁷⁰Keen, S. (1997). *Benefits of Famine*, pp. 60–2; David C. Cole and Richard Huntington, *Between a Swamp and a Hard Place: Developmental challenges in remote rural Africa* (Harvard Institute for International Development, Cambridge, M.A), pp. 64–5.

⁷¹Abyei Protocol, (2005). *Resolution of the Abyei Conflict*, Chapter IV of ‘The Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People’s Liberation Movement/Sudan People’s Liberation Army’ [hereinafter the CPA], p. 68.

⁷²Ibid

⁷³Ibid

The conflict between the ethnic groups, government and militias was fuelled by the significant oil reserves developed by foreign companies⁷⁴. This exacerbated the conflict because the huge potential profits increased the incentives for control of the land, resulting in all kinds of human rights violations.

2.4 South Kordofan State

South Kordofan State, redrawn on the basis of the CPA, has an estimated area of 144,000 km². Three quarters of the state is arable land, plains largely composed of a sand-mud mix known as *goz* and dark cotton-clay soils. The rest is mountainous. During the rainy season, from June to September, the plains are fertile, with plenty of surface water that is wasted (not harvested). During the rest of the year, they are dry. The plateau of the Nuba Mountains is 48,000 km², with the majority of the Nuba Mountain population living in the central districts of Northern Jabal and Southern Jabal⁷⁵.

Internal instability in SKS and the economic crisis of the national state have led to frequent changes in the state's administrative boundaries. The famous name Kordofan, as an administrative designation, dates back to the period of Turko-Egyptian colonial rule (1821–1885)⁷⁶. Following the fall of the Mahdiya state at the close of the nineteenth century, the Anglo-Egyptian Condominium Powers seized this area in 1898 and created Kordofan Province in 1903. The administrative boundaries and land area, 383,000 km² as of 1903–1906, then underwent several changes, particularly after independence in 1956⁷⁷.

⁷⁴Njahira, G. (2006). *Trouble in Abyei*, Sudan Mirror, 2 March 2006 available at <<http://www.sudanmirror.com/headline/trouble.asp>>.

⁷⁵Johnson, D. H. (2008). *Why Abyei matters: the breaking point of Sudan's Comprehensive Peace Agreement?* African Affairs, 107(426): 1-19.

⁷⁶Lentz, C. (2007). *Tribalism' and Ethnicity in Africa: A Review of Four Decades of Anglophone Research*. Cahiers des Sciences Humaines 31 (2): 306–28.

⁷⁷Saeed, A. (2009). *Environment, Constrained Livelihoods and Human Settlement: The Case for the Future of Pastoralists in Southwest Kurdufan*. Paper presented at the Fourth Horn of Africa Network Conference, Khartoum, 2009.

South Kordofan shares borders with eight states: four in North Sudan and four in South Sudan. Excepting Blue Nile State and Sinnar State, in the east sector of the BLB, and West Bahral-Ghazal State, further away in the west sector, all states in the borderline belt, northern or southern, share borders with South Kordofan. As a result, South Kordofan is dotted with disputed sectors and wracked with land disputes and conflict, even though there is no land scarcity. Population density is a mere 10 inhabitants per square kilometre and the gross land/population ratio is 17 feddans (8 hectares) per person, including men, women, and children. An average household of six people could have up to 48 hectares of land if the resource were equitably managed.

The failure to define stable administrative boundaries comes not from land scarcity but from the location of South Kordofan as a central state in a country undergoing disintegration. Oil-related and pasture-related disputes are entangled with unresolved border delineation disputes that the TBC has been trying to address for six years. The sectors where border disputes are most acute seem to coincide with those where exploration has found petroleum reserves of commercial quantities⁷⁸.

The main locations in South Kordofan State (SKS) where border disputes need to be resolved by the TBC are Kaka town sector, where South Kordofan in North Sudan meets Upper Nile State in South Sudan; the Jabal Migeinis sector, where White Nile State and South Kordofan State in North Sudan meet Upper Nile State in South Sudan; and the Abyei area, a disputed domain where conflict is playing out at the local, national, and international levels⁷⁹.

⁷⁸Saeed, A. (2010). *Strained Livelihoods Conditions of Pastoralist and Farming Communities in Southern Kordofan, Sudan: Persistent Contentions and Emerging Challenges for Better Future*. Discussion item presented to the Cairo Papers Symposium on Agrarian Transformation in the Arab World, 2010.

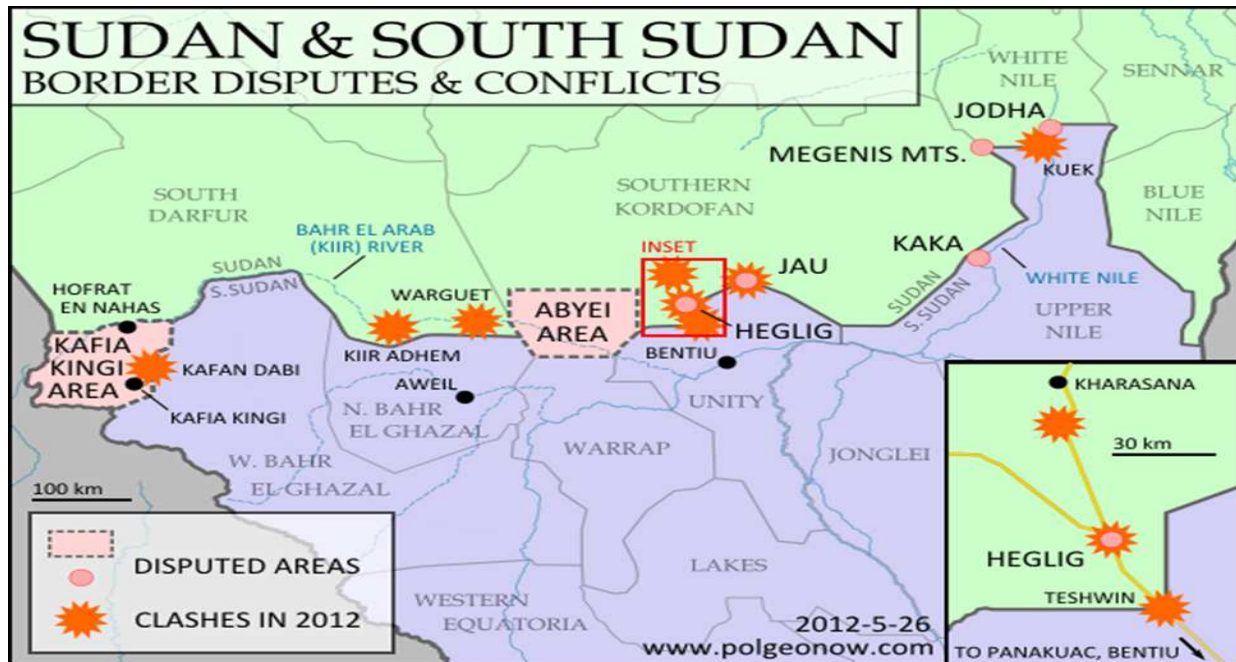
⁷⁹John, R. (1989). *Displaced Southern Sudanese in Northern Sudan with special reference to southern Darfur and Kordofan* (report, SCF-UK, London), pp. 9–10

The current boundary of Manyo County, inhabited by the Shilluk people in Upper Nile State, adjoins al-Salam Locality in WNS, inhabited by Seleim agro-pastoralist cattle herders. The Seleim regularly collect gum arabic and other seasonal harvests and claim the area as part of their traditional dar. In addition, the Migeinis sector also has considerable agricultural potential as well as oil exploration in block 7. It is the oil that seems to be a primary motivation behind TBC claims and counterclaims. However, as the TBC mandate is grounded in administrative boundary delineation and demarcation, there is little chance that traditional dar claims will prevail over official documents. In the course of the committee's discussions, South Sudan members of the TBC have stated that if North Sudan (NCP) members would prefer that the committee expands its mandate and deliberations to include 'historical tribal boundaries,' they would be happy to do so⁸⁰. They think that South Sudan would undoubtedly stand to benefit in several disputed locations, including the oil-rich Hijleej fields, a sector that South Sudan claims belongs to Dinka paanaru section of Padang in Unity State.

Figure 2.1 presents the map showing the areas of disputes between Sudan and South Sudan. The map shows borderline belt of the two states as well as the locations of disputed resources, Abyei and South Kordofan.

⁸⁰Saeed, A. (2009). *Environment, Constrained Livelihoods and Human Settlement: The Case for the Future of Pastoralists in Southwest Kurdufan*. Paper presented at the Fourth Horn of Africa Network Conference, Khartoum, 2009.

Figure 2.1: Sudan and South Sudan Border Disputes and Conflicts



Source: [http://www.polgeonow.com/2012/05feature-Sudan-South Sudan-border26html](http://www.polgeonow.com/2012/05feature-Sudan-South-Sudan-border26html).

2.5 Issue of Relations with International Community

South Sudan enjoys cordial relations with the United States. In fact it was due to the support of the US that it was able to achieve independence. For over two decades, the US continued to provide humanitarian assistance to South Sudan and in finding a diplomatic solution to the North-South Sudan conflict. It succeeded somewhat in its efforts as a result of the Comprehensive Peace Agreement (CPA) in 2005 that called for a referendum in July 2011, in which the South opted for independence. After South Sudan gained independence, the Obama administration promised that it will try to provide all possible support to the new state.

In the wake of independence, South Sudan's ties with China have also evolved positively. Although China's historical support for Khartoum could prove disturbing for Juba, the positive trend should continue. Juba has taken the right path by saying that if the Chinese are to come and

partner in developing the new nation, they will be welcomed. China has also reciprocated by noting that it is keen to expand its presence in South Sudan's oil sector along with other areas such as building infrastructure⁸¹. In January 2012 China offered an economic package to South Sudan including development grants and a possible billion-dollar infrastructure loan.

South Sudan enjoys good relations with its African neighbors that include Kenya, Uganda, Burundi, Tanzania, Rwanda, Eritrea and Ethiopia. These East African states helped South Sudan in achieving independence. Eritrea and Ethiopia helped the SPLM both politically and militarily during the war and Ethiopia, Kenya and Uganda offered safe havens and support to the SPLM. A stable South Sudan is important to all these countries not only politically but economically too. After independence, its vitality increases even further. A peaceful South Sudan means billions of dollars in trade and investment for East African and other countries in the region⁸², including through the aforementioned pipelines. However, because of its conflicts with the North and its economic fragility, South Sudan needs the commitment and support of its African neighbors as well. Apart from South Sudan's relations with the US, China, Israel and its African neighbors, it also enjoys strong relations with a number of countries in Europe and Asia.

⁸¹De Kock, P. (2010). *Thabo Mbeki and the 'long talk' to southern Sudan's referendum*. South African Institute of International Affairs Policy Briefing no. 25. Johannesburg: SAIIA.

⁸²Galal el-Din el-Tayeb, ed, (2006). *Land Issues and Peace in Sudan*. Khartoum: Sudanese Environment Conservation Society, 2006.

CHAPTER THREE

PITFALLS OF POST-REFERENDUM NEGOTIATIONS

3.0 Introduction

The chapter critically discusses the pitfalls of the mediation process. It discusses Post-Referendum external actor's realignment, the strength and weakness of the mediation process.

3.1 Post Referendum External Actors Realignment

South Sudan has changed regional dynamics. This is reflected in how external actors approach the two Sudan's and their changing roles in the negotiations. The shift from the CPA framework to the AUHIP is symptomatic of this realignment. It is evident that the Sudan issue has ceased to be a war and a humanitarian crisis to be resolved by the "international community" and has instead become one of the many uneasy bilateral relations between African states. Countries that were involved in the negotiations and in Sudan's in general have significantly changed their approaches following South Sudan's secession. This is with a general downscaling of involvement.

The Troika countries compared to the CPA process have taken a more backseat approach to the AUHIP talks. The U.S., Britain and Norway have vested interests in the legacy of the CPA and in ensuring that the two Sudan's remain at peace and avoid state collapse, as indicated by the continued appointment of special envoy's focusing just on these issues⁸³. However, it is unclear how much political capital and resources they are willing to invest in long-lasting negotiations. The U.S. has been seen as favoring South Sudan at least since the mid-1990s, but has also cooperated with Khartoum on counter-terrorism issues since before the attacks in the U.S. of

⁸³Sudan Tribune, (2013). *African Union High Level Implementation Panel on Sudan (AUHIP)*.

September 11th 2001⁸⁴. After South Sudan's secession the U.S. appears to increasingly be seen as partisan to the South. Britain has historically had a closer relationship with whatever regime was in power in Khartoum, but seems to be practically shut out after 2011. It is now assisting the U.S. in training and building up South Sudan's military and border control capacity. Norway, also regarded as biased towards the South, continues to be welcomed in both Juba and Khartoum, but struggles with maintaining domestic interest and the necessary level of diplomatic and economic engagement.

The secession resulted in new relations between the two Sudan's and their neighboring countries. Ethiopia managed to maintain relatively good relations with both countries, while Uganda and Kenya have sided with South Sudan. Additionally, Eritrea remains uncommitted. There has been an interesting change in Egypt's approach. Egypt was an uncompromising ally of Khartoum before 2011, but South Sudan's secession coincided with the Arab Spring, and domestic challenges have since crippled Egypt's foreign policy apparatus. This is regardless of the imperative of protecting its upstream interests in the Nile and gaining influence in riparian countries has compelled Egypt to make overtures towards South Sudan and to adopt a more balanced approach. A similar process has occurred in China. For reasons of protection of its oil interests, which are now split between the two Sudan's, and in general pursuit of a combined political and economic expansive agenda in Africa, has also changed from a one-sided approach to an attempt at balancing its interests in Sudan and South Sudan⁸⁵. Chad and Libya have remained aloof. Evidently, South Sudan's secession has not had much impact on their relations with Khartoum.

⁸⁴African Union, AU (2010). *Report of the Chairperson of the Commission on the Situation in the Sudan and on the Activities of the African Union High Level Implementation Panel on Sudan*. Presented at the 250th Peace and Security Council Meeting, Tripoli, Libya, November 30th.

⁸⁵Rolandsen, O. H. (2011). A quick fix? A retrospective analysis of the Sudan Comprehensive Peace Agreement. *Review of African Political Economy*, 38(130): 551-64.

External parties involved in the negotiations insist that they are not mediators, only facilitators. They maintain that the parties themselves are responsible for finding solutions to their disputes. The AUHIP continues to emphasize its role as facilitator, yet close observers and advisors to the process testify that at least the leader of the panel, Thabo Mbeki, has had an unofficial mediator role⁸⁶. This is not only how he is perceived by observers of the process, but a close examination of his role reveals actions that are consistent with that of a mediator (shuttle diplomacy, presentation of compromise solutions, etc.). Stressing the facilitator role is also convenient for the external parties, to avoid losing prestige in the event of failed negotiations. The Troika countries have been more akin to supporters of the process, providing logistical and financial support through the IGAD Transitional Support Unit. The EU has also been an important donor to the AUHIP and, like the Troika countries, has supported the talks with experts in the different areas. Thus, if not acting as a mediator, the EU has at least contributed to making more difficult the distinction between these two types of actors.

The international realignment has had two important effects. The importance of Sudanese-South Sudanese relations has been downgraded for most of the external factors involved. The exceptions are neighboring countries and China, which all have strong vested interests in peace and stability in the region. The other effect is a strengthening of South Sudan's position. It has become possible for some countries to more clearly express their support for South Sudan than it was when it was part of Sudan, while some of Sudan's stronger supporters have had to balance their patronage

⁸⁶De Kock, P. (2010). *Thabo Mbeki and the 'long talk' to southern Sudan's referendum*. South African Institute of International Affairs Policy Briefing no. 25. Johannesburg: SAIIA.

3.2 Strength of the Mediation Process

The relative strength of the negotiations was decisive for the turn the negotiations take and for the incentives the parties have to continue talks rather than resorting to other strategies. Before 2005 the incentives for pursuing the CPA talks were the prospects of ending the civil war and the ensuing peace dividends – the alternative was continued civil war⁸⁷. Other incentives for negotiation were the promise of the lifting of U.S. sanctions on Sudan vs the threat of a more confrontational relationship with the U.S. While progress was made in the CPA negotiations, the war in Darfur hindered the lifting of sanctions.

3.2.1 Military Balance

As is the case in most civil wars, the government army, the Sudan Armed Forces (SAF), was until 2005 reckoned to have a vast military superiority over the rebel army of the SPLA. SAF did at least have better arms and equipment, and in large quantities. The provisions of the CPA allowed the rebel army to be kept intact and also gave the government of South Sudan permission to procure arms without Khartoum's approval (which it did on several occasions)⁸⁸. The Justice and Equality Movement's attack from Darfur on Omdurman in May 2008 was a wake-up call demonstrating that Khartoum was not outside the rebels' reach. On the other hand, leaders in Juba have considerable political capital invested in the status quo and, with Sudan's air superiority, a return to war would have devastating consequences for South Sudan and put fragile political alliances in jeopardy.

It is fair to assume that Khartoum maintained a military edge over South Sudan, despite economic difficulties and being bogged down in military confrontations in Darfur, South Kordofan and Blue Nile. The gap between the two armies has, however, been sufficiently

⁸⁷Rolandsen, O. H. (2011). A quick fix? A retrospective analysis of the Sudan Comprehensive Peace Agreement. *Review of African Political Economy*, 38(130): 551-64.

⁸⁸BBC (British Broadcasting Corporation), (2008). *Hijacked tanks 'for South Sudan*. October 7th

narrowed so that, even for the most hawkish SAF general, a full-scale confrontation with South Sudan would be too costly and the outcome too unpredictable. Except for smaller provocations and skirmishes along the border, there was therefore little suggesting that either of the parties had much appetite for a military confrontation. Both countries were threatened by domestic military and political opposition, so proxy warfare and support to the other party's internal opposition emerge as the main tools of intervention⁸⁹.

3.2.2 Internal Cohesion

Lack of internal cohesion is often presented as a problem that is specific to South Sudan, but the frequent manifestations of internal dissent in Sudan are equally threatening, if not more so, to regime stability. The current government in Khartoum faced a lethal cocktail of periphery rebellions, unruly militias, strong urban resistance, a mutinous army and splits within the ruling clique. The regime had grappled with the unpopular civil war in Darfur since 2003, which also had serious international repercussions, isolating and weakening the regime politically and economically. When rebellions in South Kordofan and Blue Nile reignited in mid-2011, internal rivalry within the ruling elite came out in the open. As student protests started in Khartoum, the support base of the regime seemed to crumble away.

Against this background, there were doubts as to whether the NCP regime would weather South Sudan's secession, which was very unpopular among northern Sudanese. Although the outcome of the South Sudan referendum cannot have come as a surprise to the northerners, the loss of South Sudan was nevertheless a defeat for the NCP leadership and was regarded as a sign of weakness on its part. Some thought it was an unnecessary concession brought about by foreign interference, while others resented the loss of the political force South Sudan represented in efforts to bring about political change in Sudan. President Bashir and negotiators from Sudan

⁸⁹Ibid.

have turned this into an argument in the negotiations with South Sudan whereby the NCP leaders stress that “letting” South Sudan. Secede was a large “concession” that justifies a tougher stance in the negotiations on outstanding issues. They insist on “no more concessions now”. As the Sudanese president said in February this year: “We handed the South (Sudanese) a fully sovereign state but rather than focus on building their state they have become devoted to creating conflicts.” He added: “We are advocates of peace but peace will not be at any cost. We have given everything and we do not have anything new to offer”⁹⁰.

The secession has also been an up-hill struggle for South Sudan. Juba’s main issues are the lack of state penetration in rural areas, small-arms proliferation among civilians and a general lawlessness accompanied by vigilantism⁹¹. Many Sudanese politicians and foreign observers gave the new state a dark prognosis, suggesting that it was only the opposition to Khartoum and the struggle for autonomy that had kept the South Sudanese united. The government in South Sudan has proven more resilient than expected, however: splits have been few and manageable, and it has survived the one-year halt in oil production, as well as heavy internal political contestation and a series of military insurgencies in the states of Unity and Jonglei. Despite a series of internal disputes, the SPLM has continued as a grand alliance uniting most political groups. It remains to be seen, however, if the fallout from the radical government reshuffle of summer 2013 and the imminent national convention of the SPLM will pose an insurmountable challenge to regime cohesion.

3.2.3 Economy

Sudan’s national economy is larger and more diversified than that of South Sudan. Yet oil revenues fuel not only the economies of both countries, but also various political patronage

⁹⁰Sudan Tribune, (2013). *Bashir says Sudan has no more concessions to offer Juba*. February 11th.

⁹¹Schomerus, M., & Tim, A. (2010). *Southern Sudan at Odds with Itself: Dynamics of Conflict and Predicaments of Peace*. London: London School of Economics and Political Science.

mechanisms. This is why both parties urgently needed to resolve issues related to oil revenues following the secession of the South. This urgency helped trigger the crisis around Khartoum's confiscation of oil in December 2011 and the subsequent shutdown of oil production by South Sudan in January 2012. The parties were pushed towards an agreement in increasing economic difficulties in September 2012. In June 2013, Khartoum threatened to stop the transport of oil through its pipelines. However, the threat was withdrawn a few days before the September 6th deadline that Khartoum had set⁹². Parallel to these negotiations, both parties are trying to reduce their dependency on each other: Sudan is exploring new oil fields and South Sudan is looking for alternative routes for transporting its oil to an international harbor. But for the time being their economic interests are closely intertwined, since neither can afford to be without the oil income for more than a short period of time.

3.2.4 International Support

The steady flow of oil revenues and other revenues is crucial for each state. Autonomy and capacity to withstand foreign interference in their internal affairs is key to the states. South Sudan is still more vulnerable to pressure and interference from external parties both within the negotiations framework and in foreign affairs more generally. Before July 2011 both parties were susceptible to such pressure, because they were still committed to the CPA and the South's secession was still at stake. Today, South Sudan is less constrained in the negotiations than before. However, it is still the most likely to bow to external pressure. One reason is that it needs external technical and administrative resources to run its state apparatus and improve its military.

⁹²Reuters, L. (2013). *Sudan lifts threat to block South Sudan oil, foes vow to mend ties*. September 13th

While it is not as dependent on external aid as some observers would have it, the consequences of a reduction in such assistance are difficult to predict⁹³.

Another reason is South Sudan's strategy of being the "good guy" and the "underdog", which was used effectively in mustering international support before 2011. Maintaining this image is difficult, however, when an ill-trained former guerrilla army faces local rebellions and well-armed civilians. The abuse of executive power and reports of government harassment of the political opposition, combined with the curtailing of freedom of speech, have also dented the country's image of moral superiority vis-à-vis Khartoum. Despite South Sudan's greater international goodwill, it is reasonable to assume that Sudan still has the upper hand in the negotiations because of its diplomatic experience and lesser vulnerability to external pressure⁹⁴.

In sum, South Sudan's secession has brought Juba more on par with Khartoum both militarily and economically. The SPLA remains a credible military threat now as a formal national army and any border transgression on the part of Khartoum will today have much higher diplomatic costs than it would have had before South Sudan's secession⁹⁵. When it comes to oil, not only does South Sudan receive a larger share of the revenues, but Juba has more control over oil production, and agreements with Khartoum are more closely monitored and protected by international rules and regulations. Even though South Sudan is still susceptible to external pressure, its ability to withstand such pressure and its diplomatic and foreign policy capacity are stronger than before.

⁹³De Kock, P. (2010). *Thabo Mbeki and the 'long talk' to southern Sudan's referendum*. South African Institute of International Affairs Policy Briefing no. 25. Johannesburg: SAIIA.

⁹⁴Ibid

⁹⁵Sudan Tribune, (2013). *Bashir says Sudan has no more concessions to offer Juba*. February 11th.

3.3 Weakness of the Mediation Process

It is vital that negotiations happen under the auspices of a single lead mediator but there exists other candidates who take part in the mediation process. The lead mediator needs to be realistic about the size of the task at hand and know that negotiating complex issues will require substantial time, technical expertise and human resources⁹⁶. During the mediation process between South Sudan and Sudan, South African President Thabo Mbeki was the lead mediator.

Lack of inclusivity of interested parties in southern Sudan, notably civil society and political parties, claimed to be comprehensive. The result was an agreement that was effectively a bilateral arrangement between the SPLM and the NCP for which most people in Sudan felt no sense of ownership⁹⁷. The lack of inclusivity of the peace process means that the Sudanese people could only pass judgment on the CPA through national elections, but the elections were delayed and the difficulties in demarcating the north-south border and ending the conflict in Darfur resulted in a further postponement. In addition, the development of a democratic culture conducive for the holding of fair elections had not been permitted to emerge in either north or south Sudan where security regimes dominated. Lastly, the National Assembly had passed legislation that prohibits parties participating in the national election unless they endorsed the CPA, thus precluding a negative assessment of the agreement⁹⁸.

The peace process never developed trust and understanding between the parties, and in its absence and the failure to commit to wide-ranging reconciliation, the mediation followed Western practice and emphasized legal requirements and time-tables. But the great number of bodies and commissions formed to regulate, monitor, and adjudicate disputes were not managed

⁹⁶Abdalla, A. (2010). The fate of the Nile Basin Initiative after May 14th 2010, *Sudan Tribune*, 15 May.

⁹⁷Taha, F. A. (2010) Between past, present and future: The Sudan's role as a middle-stream country', *International Journal of African Renaissance Studies - Multi-, Inter- and Transdisciplinarity*, 5: 1, pp. 5-18.

⁹⁸Ibid.

to overcome the lack of trust between the SPLM and the NCP, and as a result the implementation of the agreement was far behind schedule⁹⁹.

The elitist approach of the mediation was also manifest in its disdain for the media¹⁰⁰. Instead of viewing the media as a partner in the peace process, a valued critic, and a crucial instrument with which to engage the Sudanese public and provide a measure of accountability, it was treated as an enemy and a threat.

The narrow focus of the mediation and the emphasis on reaching an agreement meant its implications were not fully appreciated. Thus the agreement to dissolve OAGs threatened to unleash a war between the SPLA and the South Sudan Defence Force, while the power sharing arrangement which gave the SPLM and the NCP the lion's share of state power undermined efforts to reach a settlement in Darfur and encouraged secessionist sentiments in the country¹⁰¹.

While international engagement in the peace process was necessary, the mediation failed to appreciate that this engagement posed a threat to the sovereignty of Sudan region. The conclusion of the US and its allies that their security and the 'war on terror' necessitates heightened military and diplomatic involvement in the Horn raised fear that the region could again become a focus of competition and conflict for external interests¹⁰².

The identity of the mediator was less important than maintaining a broad consensus within and outside Sudan that he was in the lead, and that other states and non-state actors were prepared to fall in line and support the mediator. The pitfall was that many states and non-state actors had massive stakes in Sudan's future, from Sudan's nine neighboring countries, to China and its thirst for Sudanese oil, to the U.S. and its vocal advocacy community, to the African

⁹⁹Ibid.

¹⁰⁰Cliffe, L. (2011). Regional Dimensions of conflict in the Horn of Africa. *Third World Quarterly*. Vol. 20. No. 1. 1999.

¹⁰¹Ryle, (2012). Disaster in Darfur. *New York Review of Books*. Vol. 51. No. 13. 12 August 2004.

¹⁰²Ibid.

Union and its unfulfilled promise of African solutions to African problems, to the United Nations Mission in Sudan.

The lead mediator will need to be strong enough to say when interested states and non-state actors can be involved in negotiations, and when they need to back off. Equally important, he or she will need to be able to deter any competing initiatives, so there is a single forum for negotiations. One of the most destructive aspects of the multiple Darfur peace processes has been the “forum shopping” dynamic by which some of the negotiating parties have been able to play various initiatives against each other, resulting in little progress. Only recently has a general consensus developed that Doha is the single venue for Darfur negotiations.

CHAPTER FOUR

THE PROSPECTS AND PITFALLS OF PEACE AND STABILITY IN POST- INDEPENDENCE SOUTH SUDAN

4.0 Introduction

This chapter critically investigates the pitfalls of peace and stability in post-independence South Sudan. The prospects covered in this chapter are: IGAD peace process and Mbeki panel; the continued positive role of the international community; the role of the US and the fear of spread for extremist; South Sudan fatigued with war and just want peace; and lessons for South Sudan as a young Nation from other Countries. The challenges covered are: The flagging IGAD peace process and internalization of the conflict; inevitable relationship with the North; security challenges; threat of insurgency in the new state; and the challenge of peace process without trust.

4.1 Prospects

South Sudanese citizens upon the declaration of the outcome results of referendum that mark the Independence of South Sudan on July, 2011. There were celebrations in the all South Sudan States the citizens were having highly expectation toward their new state, unfortunately the government fail to deliver the basic services, that was a long waiting hope since the war in South had undermine the development. The wars that southerners fought against regime in Khartoum since 1955-1972 ended with Addis Ababa peace Agreement between Jafaar Mohammed Nimeiri regime and Anya-Nya one movement, and from 1983-2005 ended with CPA between NCP and SPLM/A. It was because of marginalisation policies that where adopted by ruling Arab Muslim toward Southern region dominated by black African ethnics.

4.1.1 IGAD Peace Process and Mbeki Panel

Leaders of the regional organization Intergovernmental Authority on Development (IGAD) On 19 December 2013 landed in Juba to help diffuse the crisis and met with leaders of both parties. IGAD convened a summit in Nairobi, Kenya on 27 December 2013. They addressed the situation in South Sudan¹⁰³. The final communique gave the parties involved four days to establish a ceasefire. It also appointed an IGAD mediation team to work with the GRSS and opposition to reach a cessation of hostilities, a release of detainees, and a process of dialogue. Delegations from both sides of the conflict arrived in Ethiopia for peace talks that began four days later¹⁰⁴. Talks stalled over the issue of political prisoners early on, but ultimately continued, with a ceasefire being signed on 23 January 2014. Under the ceasefire deal, both government and rebel forces agreed to halt military operations immediately, and to cease attacks on civilians. The Security Council welcomed the agreement in a press statement that same day. However, both sides were reported to have breached the truce.

Phase II of the peace talks, which were also mediated by IGAD, and were scheduled to begin on 10 February 2014. Talks were delayed to allow seven of the political prisoners, released by President Kiir in late January, to attend¹⁰⁵. The former prisoners formed a third independent party to the negotiations. They demanded the release of the four remaining detainees in Juba. While this delayed the proceedings, the talks ultimately continued, and the sides authorized an IGAD Protection and Deterrent Force (PDF) intended to monitor and enforce the ceasefire. It was hoped that troops would deploy in mid-April. However, as of 22 April, there are no IGAD troops in South Sudan. Phase II talks resumed on 25 March 2014 after a slight delay, but with no

¹⁰³ Abdalla, M. A. (2010). *Abyei Natural Resources Conflict Situation Report*. Institute for Security Studies, p. 1.

¹⁰⁴ Ibid

¹⁰⁵ Ibid

significant outcomes. Talks were scheduled to begin again after a three-week recess on 23 April 2014, but following renewed fighting, negotiations have been delayed to 28 April¹⁰⁶.

Peace negotiations have been complicated by the presence of Ugandan troops in South Sudan; as a member of IGAD, its presence in South Sudan may cast doubt on the mediator's impartiality. These forces entered the country shortly after fighting in mid-December 2013, ostensibly to rescue and evacuate Ugandan citizens¹⁰⁷. President Museveni of Uganda denied reports that his troops were actively engaged in combat until 15 January 2014, when he acknowledged their role in suppressing a 'rebellion'. Analysts and members of the international community – particularly Norway – have noted their concerns at Ugandan involvement, and the possibility of regional conflict. In early February 2014, Ethiopia – the host of the peace talks – has expressed fears of the conflict spilling over and has called for Ugandan troops to withdraw¹⁰⁸. The GRSS has defended Uganda's involvement as 'legitimate'. Government officials insist that Uganda deployed troops in accordance with a 'status of forces' agreement signed even before South Sudan's independence. The most recent signs from the Ugandan army indicate that they are willing to withdraw as soon as an African force arrives¹⁰⁹.

The African Union has been vocal since the conflict began, expressing its deep concern on 17 December 2013, and calling for a humanitarian truce and dialogue shortly after¹¹⁰. On 31 December 2013, the AU took a stronger stance, threatening targeted sanctions against those inciting violence, continuing hostilities and undermining peace talks. The conflict in Sudan dominated the agenda at the AU summit in the end of January, along with the crisis in the

¹⁰⁶Al-Sammani, A. (2011). *South Sudan to Establish 10 Corridors on the Border, Sudan Vision*.

¹⁰⁷Samson, S. W. (2010). *African Union, African Union High Level Implementation Panel on Sudan, Khartoum*.

¹⁰⁸Jon, T., & Theodore, M. (2011). *Toward a New Republic of Sudan*.

¹⁰⁹Jok M. J., & Douglas, J. (2007). *Race, Religion and Violence. The Root Causes of Sudan's Civil Wars*.

¹¹⁰Peter A. N. (2010). *The Politics of Liberation in South Sudan: An Insider's Viewpoint* (Kampala: Fountain Press).

Central African Republic¹¹¹. By far the most important action taken by the organisation thus far, however, must be the AU Peace and Security Council's decision on 30 December 2013 to establish a commission of inquiry. The commission is due to submit a report within three months. International Crisis Group (ICG) analyst Casie Copeland notes that it is in the commission's mandate to make recommendations for accountability and justice, as well as report on human rights violations, thereby providing the AU with an opportunity to 'define action in situations of mass atrocities elsewhere on the continent'¹¹². At the time of writing, it had just been announced that the Commission would begin its first field mission on 24 April 2014. Adama Dieng, Special Advisor for the Prevention of Genocide, has highlighted the need for the commission to 'do it right' in South Sudan.

The signing of the Comprehensive Peace Agreement on 9 January 2005 in Nairobi, the culmination of more than a decade of intervention by the Inter-Governmental Authority on Development (IGAD), is a milestone in the history of Sudan and will have a major impact on the country, the region, and beyond¹¹³. Its achievement was greeted with joy in most parts of the south, muted optimism in the north, and hopes in the international community that it would bring peace to the south and provide the model for peace agreements in Darfur and elsewhere in the country. However, on the second anniversary of the agreement, President of the Government of South Sudan (GoSS) and Vice-President of Sudan, Salva Kiir, reported that the agreement was in a state of crisis ('Sudan Tribune', 11 January 2007), the optimism of northern Sudanese had largely vanished, and the Darfur Peace Agreement (DPA) of May 2006, which had been shaped

¹¹¹Sriram, G., & Chandra, L. (2009). *Evaluating and comparing Strategies of Peacebuilding and Transitional Justice*. JAD-PbP Working Paper No 1.

¹¹²Jill, S. (2011). *Negotiating Sudan's Post-Referendum Arrangements*.

¹¹³Joe, T., & Theodore, M. (2011). *Toward a New Republic of Sudan*. U.S. Institute of Peace.

by the CPA, had all but collapsed¹¹⁴. To be sure, it is far too early to pronounce the demise of the CPA and the processes that it gave rise to in Darfur and eastern Sudan, but its failure to usher in the comprehensive peace and democratic transformation promised by its authors and supporters point to the need for a critical assessment of the peace process, the CPA, and its implementation¹¹⁵.

The failure of these various efforts laid the basis for the region to take up the gauntlet, but first a suitable mechanism had to be established, and what is significant here is that the impetus came from outside the region. The formation of the Inter-Governmental Authority on Drought and Development (IGADD), the fore-runner to IGAD, was largely due to pressure from aid agencies and international donors, while its subsequent assumption of responsibilities in the fields of peace and security followed new thinking on the role of regionalism and regional co-operation in safeguarding the international order¹¹⁶. Thus in the wake of the failed Nigerian efforts, IGADD launched a peace initiative at its Addis Ababa summit of 7 September 1993 and a Peace Committee made up of the heads of state of Ethiopia, Eritrea, Uganda, and Kenya was established with President Daniel arap Moi serving as chairman. The mediation process was handled by a Standing Committee made up of the foreign ministers from the same countries and chaired by Kenya. In addition, the Friends of IGADD was formed by leading Western countries and it promised support for IGADD's peace keeping role¹¹⁷.

Against this background Sudan's President Omar Beshir proposed that IGADD take up the peace process. The reasons for Beshir's proposal included the desire to pre-empt any UN initiative, fear that in the absence of a viable peace process that US military engagement under

¹¹⁴Peter, B. (2011). *New Chinese Dam Project Fuels Ethnic Conflict in Sudan*. International Rivers.

¹¹⁵Marchal, R. (2013). *The regional dimension of Sudanese politics*, in: op cit Heinrich Boll Stiftung, pp 79–96, p 80.

¹¹⁶Schumann, P. (2012). International actors in Sudan: *The politics of implementing comprehensive peace*.

¹¹⁷Heinrich, B. S. (2011). Royal Norwegian Embassy in Khartoum. *Norway's role in the peace process*.

way in Somalia could spread to Sudan, and because his government had provided support to the Ethiopian and Eritrean rebel groups in the period immediately prior to their capture of state power he anticipated it would receive a fair hearing from them¹¹⁸. The GoS considered the SPLM/A largely a proxy of Haile Mengistu Mariam and Uganda's President Museveni, but with the overthrow of the Ethiopian military regime it hoped for better relations with the new governments that came to power, and according to one respondent, President Beshir consulted Prime Minister Meles Zenawi and President Isias Aferworki before making his appeal to IGADD. Indeed, the incoming Ethiopian People's Revolutionary Democratic Front (EPRDF) strongly supported good neighbourly relations and oversaw the expulsion of the SPLM/A from its territory as part of that commitment. But if Bashir concluded that the leaders of Ethiopia and Eritrea would be sympathetic to Khartoum, he was soon to be badly disillusioned¹¹⁹.

Against this background the IGAD Partners Forum (IPF, the successor of the Friends of IGADD) and civil society groups got the IGAD states to agree to the establishment of a permanent Secretariat and the appointment a special envoy¹²⁰. In addition, IGAD turned its attention to gaining Western financial and political support and ensuring that other peace processes were not endorsed by the international community. In 1991 mandate was renewed as a result of the meeting of the IGAD Sub-Ministerial Committee on the Conflict in Sudan held in July 1999 with the support of the parties to the conflict and a Secretariat was established to carry out mediation¹²¹. The meeting also decided to have a special envoy appointed by the President of Kenya and for the other sub-committee members of Uganda, Ethiopia and Eritrea to each appoint a full time envoy to the peace process, although in practice their ambassadors to Kenya

¹¹⁸ Abdalla, M. A. (2010). *Abyei Natural Resources Conflict Situation Report*. Institute for Security Studies.

¹¹⁹ Sudan Tribune, (2012). *More South Sudanese Officials Declare Income and Assets*.

¹²⁰ World Bank, (2007). *Sudan Public Expenditure Review Synthesis Report, Poverty Reduction and Economic Management Unit*.

¹²¹ Ibid.

served as peace envoys. Subsequently the terms of reference of the Secretariat was agreed upon and they stipulated it be based in Nairobi and permitted the special envoy to consult resource persons, required him to liaise with the Executive Secretary of IGAD (although the actual terms were not spelled out), and permitted the Secretariat to assume responsibility for ‘receiving and managing funds obtained from the IGAD member states, IGAD partners, and the international community. Daniel Mboya, was appointed special envoy and set about establishing the Secretariat and conducting the mediation¹²². However, despite this revamped system the July 1999 talks in Nairobi did not make any substantive progress, nor did two more rounds in 2000.

The first Sudan IGAD peace initiative nonetheless had some genuine accomplishments – a well thought out Declaration of Principles (DoP), workable relations with the belligerents, an institutional focus in the Sudan Secretariat, development of the system of ambassador envoys, political and financial support from the IPF, and international legitimacy¹²³. It also carried out considerable work on a wealth-sharing agreement and on resolution of the problem of the marginalized territories that would figure in the subsequent CPA. The first Sudan IGAD peace initiative also suffered from a perennial shortage of funds, caught as it was in a battle between IGAD-Djibouti and the international donors¹²⁴. IGAD-Djibouti wanted the donors to deposit the money in its accounts, while the donors complained of a lack of accountability, and together with Mboya the first Kenya envoy claimed that the Sudan Secretariat was starved for funds. Moreover, since Mboya was a Kenyan ambassador appointed by the President of Kenya, IGAD could exert little influence over him. In the event, the finances were largely to be taken out of the hands of IGAD, but political control of the Sudan IGAD Secretariat would remain a concern.

¹²²East African Community, (2007). *Treaty for the Establishment of the East African Community*.

¹²³Ministry of National Defence, (2007). *China holds humanitarian minesweeping training course for South Sudan and Sudan*.

¹²⁴Hirono, M. (2010). *China's charm offensive and peacekeeping*. The lessons of Cambodia – What now for Sudan?

As a result of these problems and the disenchantment they created, by late 2001 most diplomats, analysts, and the belligerents concluded that the peace process needed invigoration¹²⁵.

Moreover, while the DoP made the right of the south to self-determination subject to the failure of the national government to introduce democracy, secularism, and the fair distribution of resources, Machakos granted the South the right to self-determination after a transitional period, irrespective of any changes within the central state¹²⁶. Thus despite IGAD's stipulation that the DoP form the basis of the Sudan peace progress, the widespread view at the time that it was a break-through, and the assertion above by General Sumbeiywo that Machakos was the distilled political essence of the DoP, in reality it entered very different political waters. Indeed, a SPLM respondent involved in the negotiations concluded there was 'no real link between the DoP and the Machakos Protocol' and a GoS negotiator said, 'Machakos was completely different than the DOP', although others did not share this assessment. Moreover, given the fact that much of the later period of the IGAD peace process took place in the shadow of the humanitarian disaster in Darfur, which made clear that Sudan's problems could not be reduced to a north-south conceptualisation, much less a Moslem-Christian conflict, the analysis that underpinned the DoP looks more convincing than the reductionism of the Machakos Protocol¹²⁷.

Apart from the issue of self-determination for the south, probably the key condition in the Machakos Protocol is the commitment 'to make unity attractive', a provision that was widely held to place the onus on the national government to convince southern Sudanese that their rights and culture would be protected in Sudan and they would be treated as valued citizens¹²⁸.

¹²⁵Young, S. J. (2007). *Sudan IGAD Peace Process: An Evaluation*, May 30, 2007, p. 14. The IGAD "Declaration of Principles" was the first suggestion of self-determination by an international body

¹²⁶Ban, K. M. (2009). U.N. Secretary-General. *The responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity*. United Nations.

¹²⁷USAID, (2011). *South Sudan Transition Strategy 2011-2013*.

¹²⁸Executive Order 13412, (2006). *The Darfur Peace and Accountability Act of 2006* (P.L. 109-344)

However, no one on the SPLM negotiating team interviewed during the course of this research believed the government would live up to this commitment. As a result, this provision is effectively held as a ‘get out of Sudan’ card since the SPLM leadership remains convinced that the NCP will not, indeed cannot, create the democratic conditions under which southerners would find unity attractive¹²⁹. One former SPLM negotiator went further and said, ‘unity is a danger to the survival of the NCP’ because a genuine democratic system would be its undoing, and noted that even before the start of the IGAD peace process senior members of the ruling party had agitated for an early separation of the south to ensure their continuing control over the Moslem heartland in the north. But the contradictions were not just restricted to the government’s camp¹³⁰. While formally committed to a united ‘New Sudan’, the commanders and soldiers of the SPLA were mobilised on the basis of southern nationalism and a struggle for independence and as a result the disjunction between rhetorical commitments of Garang to unity and popular sentiments within the SPLA bedevilled the negotiations and continue to complicate the peace process. The Machakos Protocol is forthright in its commitment to Sudan’s democratic transformation¹³¹. More than at any other stage of the peace process, the mediators and belligerents made clear the peace process could only achieve legitimacy and be sustained if Sudan underwent a democratic transformation. The Protocol is replete with reference to ‘democratic governance, accountability, equality, respect, and justice for all citizens of Sudan’ (Section 1.1), ‘that the people of South Sudan have the right to control and govern affairs in their region’ (Section 1.2), ‘that the people of South Sudan have the right to self-determination’ (Section 1.3), and that Sudan ‘establish a democratic system of governance’ (Section 1.6). It is

¹²⁹Ibid.

¹³⁰Jenn, C. (2012). Shifting the Burden. *The Responsibility to Protect Doctrine and the Humanitarian Crisis in Sudan*.

¹³¹Ibid.

thus ironic that a GoS negotiator said ‘there was no real democratic conviction on either side’, a southern SPLM negotiator contended that ‘all the protocols were signed in bad faith’ and most of his colleagues appeared to share this sentiment. Many SPLM negotiators also felt that promises to the contrary, a southern Christian would never be accepted as president of Sudan, and that included Garang, should he have lived¹³². Not only did the parties apparently not believe in the exercise they were pursuing, but it would soon become apparent that a major weakness of Machakos lay in the gap between the appealing democratic phrases and the means to give this language concrete expression. Just as there was a disjunction in the process between the broader vision of the DoP and Machakos which was designed to meet the concerns of the ruling parties of the north and south, there was another leap between the democratic claims of Machakos, the utilitarianism of the protocols that followed, and the less than democratic approach utilised¹³³.

ON 27 September 2012, nine agreements between Sudan and South Sudan were signed, under the auspices of the African Union High-Level Implementation Panel (AUHIP), in the Ethiopian capital Addis Ababa. The nine agreements (links to which are listed here below) concern: Cooperation, Oil, Security, Nationals, Post Service Benefits, Trade, Banking, Border Issues, and Certain Economic Matters. On Friday 08 March 2013, an “Agreement on Implementation Modalities” was signed between Sudan and South Sudan at the Extraordinary Meeting of the Joint Political and Security Mechanism (JPSM) in Addis Ababa¹³⁴. The agreement consists of a detailed plan and timetable for the full implementation of all the elements of the "Agreement on Security Arrangements" between Sudan and South Sudan signed on 27 September 2012.

¹³²Ibid.

¹³³Mark, L. (2010). *U.S. Revises Offer to Take Sudan Off Terror List*. The New York Times.

¹³⁴Glen, K. (2009). *Bush Approves Plan To Pressure Sudan*. The Washington Post.

The "Agreement on Implementation Modalities" commits Sudan and South Sudan to a set of actions beginning on "D-Day", Sunday 10 March 2013, including unconditional withdrawal of all forces to their side of the Safe Demilitarised Border Zone (SDBZ) and the deployment of the Joint Border Verification and Monitoring Mechanism (JBVMM), with logistical support and logistical protection provided by the United Nations Interim Security Force for Abyei¹³⁵. The two Governments committed themselves to implementing these steps in an unconditional and coordinated manner. The signing of the "Agreement on Implementation Modalities" removes the sole remaining obstacle to the full implementation of the nine agreements signed by the two Presidents on 27 September 2012.

4.1.2 The Continued Positive Role of the International Community

The United Nations and some bilateral donors are reviewing their assistance strategy in light of the current economic crisis, and have announced the re-prioritization of their aid policy focusing on direct delivery of social services and on food assistance through non-governmental organizations similar to during the civil war. Given their organizational mandates, it is natural for UN agencies with a focus on emergency humanitarian assistance to carry out such a review¹³⁶. However, to input aid resources only into such consumables as service delivery and food distribution does not stimulate the shrinking economy, and is not an adequate strategy for the country to escape from the economic crisis. Support to capital formation and production should continue to receive attention from development partners to sustain economic activities that is threatened to shrink by 70percent. Furthermore, this economic crisis should be regarded as a

¹³⁵The United States, (2012). *Energy Information Administration, "Sudan and South Sudan," Country Analysis Briefs,*

¹³⁶Joshua, C. (2012). *The Conditioning International Financial Support to Sudan.* The Enough Project.

bleasing for diversification of economic structure needed to address the structural factors discussed above¹³⁷.

Japan has a comparative advantage in providing a high-standard infrastructure (decisively lacking in South Sudan) and many years of experience in agricultural development in Africa. Through policy dialogue with the South Sudan government and development partners, JICA will make its policy better understood and appreciated¹³⁸. JICA places particular emphasis on cooperation that contributes to "economic development," one of four pillars of the national development strategy of the Government of South Sudan (the others being security, governance and social & human development). Specific areas of attention are: transport sector including roads, bridges and river transport and basic urban services (water supply, urban roads, power generation/distribution and waste disposal), where much of the domestic and foreign investment are directed.

As part of JICA's effort to support basic infrastructure in urban areas, assistance is directed not only to capital Juba to also to a provincial town with an aim of closing urban-rural disparity¹³⁹. JICA is also partnering with the Self-Defense Forces, dispatched with an aim to contributing to "nation building" in South Sudan. Cooperation in agriculture sector, important not only for food security point of view but from the perspective of economic structure diversification, is also underway, including formulation of a national agricultural development plan for the whole country and promotion of rice production.

¹³⁷International Crisis Group (ICG), (2010). *Negotiating Sudan's North-South Future*, Africa Briefing No. 76.

¹³⁸Frank, W. (2008). *Calling for Action against Slavery in Southern Sudan*. Remarks in the House, Congressional Record

¹³⁹Human Rights Section, (2011). *UNMIS Report on the Human Rights Situation During the Violence in Southern Kordofan*.

4.1.3 The Role of the US and the Fear of Spread for Extremist

When the crisis began, UNMISS took an ‘unprecedented’ role in the protection of civilians, opening its bases in South Sudan to civilians ‘irrespective of ethnicity and affiliation’. This move has been praised by many, including Oxfam, and was received as a welcome change from previous practice in situations such as the Rwandan genocide¹⁴⁰. Relations between President Kiir’s government and UNMISS came under strain in mid-January when South Sudan’s Information Minister and his armed guards were barred from entering the United Nations compound in Bor, leading to threats against UN staff. While UNMISS insisted that only unarmed civilians were permitted to enter the compound, the GRSS accused the UN of hiding rebels and guns at the camp, and of setting up a ‘parallel government’. The Secretary General stated on 19 January 2014 that he was alarmed and disturbed by the event. On 23 January 2014, South Sudan sent a letter to the Security Council affirming their willingness to work with the mission. UNMISS has been careful to stress their impartiality. On 21 February, UNMISS released an interim report on human rights, with a full report due in April.

In response to the crisis, the United Nations Security Council passed three press statements in the last two weeks of 2013, condemning human rights abuses and violations by all parties and underscoring “the vital importance of protection of all civilians, regardless of their communities of origin.” The Council also passed Resolution 2132 on 24 December 2013, nearly doubling the troop size of UNMISS to 14,000. As per Resolution 2132, the Council held consultations on South Sudan on 11 February 2014. On 18 March 2014, the Security Council met to discuss shifting the focus of the UNMISS mandate from state building to protection of civilians, as recommended by the Secretary General. At the meeting, HerveLadsous, Head of

¹⁴⁰High Commissioner for Human Rights (UNHCHR), (2011). *Preliminary Report on Violations of International Human Rights and Humanitarian Law in Southern Kordofan*.

Peacekeeping, expressed concern at the deteriorating relationship between UNMISS and the Government of South Sudan¹⁴¹. A Foreign Policy exclusive published the same day highlighted the obstacles the mission faces in pursuing its mandate. Attacks on a UN compound in April 2014 further strained relations between UNMISS and the GRSS (see Recent Developments).

On 24 December 2013, the UN High Commissioner for Human Rights, Navi Pillay, announced that ‘mass extrajudicial killings, the targeting of individuals on the basis of their ethnicity and arbitrary detentions’ had been ‘documented’ in South Sudan¹⁴². In addition, the UN Special Advisers for the Prevention of Genocide and the Responsibility to Protect warned that “targeted attacks against civilians and against United Nations personnel, such as those that have occurred in Juba and Jonglei, could constitute war crimes or crimes against humanity”. In January 2014, following a four-day trip to South Sudan, Ivan Simonovic, Assistant Secretary-General for Human Rights, stated that both the GRSS and rebels were responsible for ‘mass atrocities’ and called for an independent fact-finding mission¹⁴³. Valerie Amos, Under-Secretary-General for Humanitarian Affairs and Emergency Relief, also visited the country later in the month. In February 2014, the United Nations and its humanitarian partners launched an appeal for \$1.27 billion, but had received only 38% of the requested aid by 17 April 2014.

Although some have called for the International Criminal Court (ICC) to take action on South Sudan, the court has made clear that it cannot launch an investigation in the country without a Security Council resolution to that effect, as South Sudan is not within the ICC’s jurisdiction. South Sudan has been urged to ratify the Rome Statute. On 7 February 2014,

¹⁴¹ICG, (2011). *South Sudan: Compounding Instability in Unity State*, Africa Report No. 179, October 17, 2011.

¹⁴²Small Arms Survey, (2010). *In Need of Review: SPLA Transformation in 2006-10 and Beyond*, November.

¹⁴³Amnesty International, (2010); Amnesty International Report 2010. *The state of the world’s human rights*, Amnesty International Publications, London

President Kiir said that he would welcome and facilitate an ICC investigation; however, at the time of writing there had been no further dialogue on the matter¹⁴⁴.

On March 19, frustrated by the delay of the IGAD mediated talks, the United States issued a statement on the behalf of Britain, Norway and the European Union, threatening to impose targeted sanctions on any party that undermined the peace process. President Barack Obama then signed an executive order allowing for asset seizure and visa bans. A month later, during the recess between rounds of Phase II talks, the US Special Envoy stressed that the threat was not a hollow warning. At the time of writing, Western nations had not responded to the most recent delays¹⁴⁵.

Civil society organizations, including Amnesty International, the Global Centre for the Responsibility to Protect, International Crisis Group, and the Sudan Consortium, called on the international community to facilitate mediation efforts and to ensure that the GRSS protects vulnerable populations. Between 27 December 2013 and 12 January 2014, Human Rights Watch interviewed over 200 victims, producing a report that described crimes committed in South Sudan as ‘serious violations of international humanitarian law’ that might constitute ‘war crimes or crimes against humanity’¹⁴⁶. In late February, the organisation released a second report concentrating on the fighting in Malakal and Bentiu, and emphasising again that recent abuses on both sides ‘may amount to war crimes’. MSF has described the ‘speed and scale’ of violence in South Sudan as ‘unprecedented’.

¹⁴⁴Deng Deng, W. (2012). *Linking DDR, security sector development and transitional justice in South Sudan*. Chapter 10 in *Post-war Security Transitions: Participatory peacbuilding after asymmetric conflict*; New York.

¹⁴⁵Human Rights watch, (2011). *There is no protection: Insecurity and Human Rights in Southern Sudan*. Human rights watch, USA.

¹⁴⁶Human Security Baseline Assessment, (2011). *Sudan Issue brief, Failures and opportunities: Rethinking DDR in South Sudan*; Small Arms Survey.

The United States recognized South Sudan as a sovereign, independent state on July 9, 2011 following its secession from Sudan. The United States played a key role in helping create the 2005 Comprehensive Peace Agreement that laid the groundwork for the 2011 referendum on self-determination, through which the people of South Sudan overwhelmingly voted to secede. Several disputes between Sudan and South Sudan remain unresolved post-independence, including demarcation of the border, status and rights of the citizens of each country in the other, and the status of the Abyei region. The United States supports the efforts of the African Union High-Level Implementation Panel to help the parties work through these issues¹⁴⁷. On December 15, 2013, longstanding political tensions between President Salva Kiir Mayardit and former Vice President Riek Machar erupted into widespread violence with devastating implications for the South Sudanese people. The United States is supporting the Intergovernmental Authority on Development (IGAD) as it leads mediation efforts between the parties.

The U.S. Government is the leading international donor to South Sudan, and is providing significant humanitarian assistance to the hundreds of thousands of South Sudanese citizens displaced or otherwise affected by the crisis since December 2013. The U.S. government is helping to provide basic services to citizens; promote effective, inclusive, and accountable governance; diversify the economy; and combat poverty¹⁴⁸. Increasing stability in South Sudan will depend on a combination of strengthening core institutions and governance processes to make them more inclusive, responding to the expectations of the population for essential services and improved livelihoods, and containing conflicts and addressing the grievances behind them. In addition, Sudanese refugees continue to flee to South Sudan due to ongoing fighting in Sudan's South Kordofan and Blue Nile states. The United States is committed to meeting the

¹⁴⁷Knight, A. W. (2010). Linking DDR and SSR in post conflict peace-building in Africa: An Overview, *African Journal of Political Science and International relations* Vol. 4(1) pp. 029-054.

¹⁴⁸Mading, D. F. (2010). *At the Brink: Self-Determination and National Unity*, Fordham University Press, USA.

humanitarian needs of these refugees, and has urged the international community to join it in efforts to relieve suffering and assist those affected by the ongoing violence.

4.1.4 South Sudan Fatigued with War and Just Want Peace

The restoration of peace and hope among the communities in the New Nation has been the focus point from the people of goodwill toward the Republic of South Sudan since the conflict engulfs the new state of diversities yet the peace and hope still diminishing. One would like to define peace and hope in his/her own way, Peace is a living together in the absence of war and other hostilities while Hope is a feeling of expectation and desire for a certain thing to happen or be the case¹⁴⁹. The south Sudan has been at war since December 15th 2013 up to date and good number of media outlet talks of “Peace” among the Communities of the South Sudan because living together is perhaps certain. War is a part of life to human being, injected when the community becomes reluctant of friendship and the hatred will come in. when things come to the notices then people will absolutely seek for settlement to the conflict where peace and hope will be restored.

Integration is the best way to settle conflicts because it keeps both the warring parties happy and leads to adoption of better techniques, saves time and resources are often leads to the emergence of the new values. In this way IGAD have to outlines the roots causes of conflict and come up with the solution that the Interim government is needed. To bring South Sudanese into the reality of the matter, there is need to in all conscience accept the fact that a violent conflict that deviated from a political dimension to an ethnic one is real and serious. One of the major factors contributing to the conflict is that the elites of our communities, nations and especially the politicians took a grave gravitating advantage over their ignorant ethnic communities to hide

¹⁴⁹Snowden, J. A. (2012). Work in Progress: *Security Force Development in South Sudan*; Small Arms Survey, Graduate Institute of International and development Studies.

their political aspirations¹⁵⁰. These ignorant communities were mobilized to make the whole political saga look like ethnic. Because of high level of illiteracy, lack of understanding on national issues and lack of responsible political vision on the side of political leaders; the political war of transforming SPLM into a democratic, transparent and formidable political party turned into an ethnic one. Peace and reconciliation could possibly begin by engaging the SPLM party because the root cause of the crisis is within the ruling party. The recently Security arrangement is very significant in the forthcoming peace talks in Addis Ababa. Once the agreement is reached, the safest way is to reintegrate those SPLA-in-Opposition soldiers into the SPLA. Only those that were on the government payroll to be re-integrated while those that the government had mobilized for national defense together with those recruited by SPLA –in – Opposition get disarmed and re-integrated into their communities¹⁵¹. Also South Sudan must learn from previous mistake regarding integration process that was done to former SSDF in 2006 upon the signing of Juba declaration. The formation of national army need clear policy, because the experience of integration had shown that most of integrated forces remain loyal to their former militia commanders or tribal leaders.

4.1.5 Lessons for South Sudan as a Young Nation from Other Countries

Since it became an independent country in 1957, Malaysia has since maintained an average of over 6% Gross Domestic Product, experiencing some economic challenges during 1990s Asia- financial crisis but recovered quickly than other affected Asian-nations. It demonstrated it is a resilient and steady economy within the Asian-Tigers¹⁵². It has reduced reliance on agriculture and natural resources based activities which were the main contributors to

¹⁵⁰AUHIP, (2010). *Framework for Resolving Outstanding Issues Relating to the Future of Sudan and the Implementation of the Comprehensive Peace Agreement*.

¹⁵¹ECOS, (2010). *Post-Referendum Arrangements for Sudan's Oil: How to Separate Siamese Twins*.

¹⁵²Francis, D. (2010). *New Sudan in the Making: Essays on a Nation in Painful Search of Itself*, The Red Sea Press, Inc., Trenton.

GDP in 1970s by expanding manufacturing of exports, mainly electronics and electrical products; increased investments in services and construction industry by encouraging foreign investments and tourism. As result of its economic policies, Malaysia has experienced stable macroeconomic indicators in term of growth, low inflation, low interest rate, high investment rate and stable exchange rate except during 1990s financial crisis which were speedily arrested coupled with exceedingly good infrastructure improvement.

Though, not homogeneous, racial issue that aroused in 1970s commonly known as 31 May incidence were quickly addressed to ensure equity between the three communities of Malay, Chinese, and Indians that made up Malaysia. Malaysia has maintained five-year economic plans. These plans ensure that economic direction envisaged is achieved. In 1971, when there was a riot in Kuala Lumpur on racial basis, the government implemented New Economic Policy to ensure equity to all ethnic group through education and business affirmative actions. In 1991, the government implemented National Development Policy that envisage self-sufficient and industrialized nation by 2020. With the current progress, there is no doubt that Malaysian is heading in the right direction. This courage might be useful for cohesive and nationalistic policies after 15 December 2013 incidence in South Sudan.

Malaysia has demonstrated ownership of its economic growth. When its economy underwent throughout financial stress in 1990s, Malaysia refused economic aid package from International Monetary Fund and World Bank and instead fought its economic challenges to surprise of many analysts¹⁵³. Whether this was a sign of self-confidence or economic lab-test, the fact Malaysia recovered than other affected economies in Asian, points to its right judgment. South Sudan needs this courage to tackle its reliance on oil, fight corruption and manage its

¹⁵³Kameir, E. (2009). *The Imperatives of Internal Dialogue: The SPLM and Returning To the Drawing Board*, Sudantribune

exchange rate menace with conviction. During the same period of 1990s, when its currency depreciated, Malaysia adopted fixed exchange rate against now favored float rate; and suspended trading of shares in capital market to reduce the impact of capital flight¹⁵⁴. Though these measures were against now favored liberalization principles, Malaysia has quite often utilized protective policy to its favors. Malaysia used subsidies and protective policies were it deems fit. Essential commodities like food, construction materials and natural gas had at times been subsidized to ensure right incentives and/or services are given to the citizens cheaply. This approach and view might be useful for South Sudan regional and international economic policy respond.

South Sudan has rich natural resources. The country heavily depends on agriculture and exports many of its products to the international market. Agricultural products like cotton, groundnuts, sorghum, millet, wheat, gum arabic, cassava, sugarcane, mangos, papaya, bananas, sweet potatoes and sesame are grown by farmers in the country¹⁵⁵. It exports timber to the international market and some of the best known teaks and natural trees grow in the Western Equatoria and Central Equatoria regions. The tributaries of River Nile also contains rich natural resources such as petroleum, iron ore, copper, chromium ore, zinc, tungsten, mica, silver, gold and hydropower. Though South Sudan produces 85% of the Sudanese oil output, after the independence of Sudan, the oil has to be equally split for a specific duration¹⁵⁶. The Comprehensive Peace Agreement (CPA) made between the Republic of South Sudan and the Government in Khartoum says that the oil revenues should be equally shared between the two

¹⁵⁴Jill, S. (2011). *Oil and State Building in South Sudan: New Country, Old Industry*, United States Institute of Peace.

¹⁵⁵National Democratic Institute, (2010). *Southern Sudan at the Crossroads: Citizens' Expectations, Aspirations, and Concerns about the Referendum and Beyond*.

¹⁵⁶Samson S. W. (2009). *The Comprehensive Peace Agreement in the Sudan: Institutional Developments and Political Trends in Focus Areas*, CMI Sudan Working Paper.

countries for a specific period of time. South Sudan's budget contains revenues from Oil to a large extent, as much as 98%. Through all these resources and many more like the lapset project from Mombasa Kenya, the Sudanese government can use this from the lessons from Malaysia and build up their economy.

4.1.6 Good Governance and Democracy

Most of the countries in African inherited government systems and ideals from the colonial masters. Post conflict South Sudan also in some instance acquired the systems of governance practiced by Khartoum government. The Sudan was known to be a rogue state by International standards. That is because of lack of good governance, undemocratic institutions, contracted civil conflicts, religious discrimination and racial sentiments. Institutions were militarized in order to protect the minority ruling elite. Institutions were tuned according to Islamic codes of justice and Arab social Ideals and concepts.

Hence during the GOSS government, the institutions that were existing could merge with the principle objectives and ideals of the people of South Sudan. However due to the conflict of interest in regards to the issue of the most sought principle of Self Determination, the government of the then Southern Sudan has to strike a balance and adopted the very institutions that South Sudan had fought against.

Therefore the system of governance during the government of Southern Sudan was a pure image of the Khartoum Government. It had no proper defined separation of powers between the arms of government such as the Executive, legislation and the judiciary. This was made worse by lack of experience since most of the position holders had been involved in rebel (SPLM/A) activities.

Governmental agencies were understaffed and most of the staffs were unqualified. There were no proper methods of recruitment process. Military personal were demobilized and reintegrated into the community some of them assumed administrative positions in civil service this leads further into the polarization of civil service and the bureaucratic system of governance.

Khartoum government failed to provide the expertise needed by South Sudan. Although the CPA provisions catered for the offer of capacity building, trainings and technical assistance to be given to the people of South Sudan, that did not take place. Instead Khartoum went on to device polices against the government of South Sudan by baking tribal militia groups to ravage the Republic of South Sudan and interrupt the development of physical and institutional infrastructure.

However, with the attainment of the positive results of the referendum in favour of South Sudan and the declaration of independence by the people of South Sudan amidst the International Community. South Sudan began to push for institutional reform by constitutionalizing a zero tolerance principle. There were also robust and concomitant approaches towards capacity building. These activities played a little role as they were met with high resistance from some of the conservatives within the file and ranks of the government of South Sudan.

The SPLM Party in the other hand organized for a South-South dialogue with all the political parties and affiliation within South Sudan. The seminar resulted into the formation of the Interim constitution for the Republic of South Sudan. The constitution is progressive in nature and has given greater hopeful prospects to the people of South Sudan. There is clear separation of power between the arms of government and above all it allows the citizens to elect their own leaders both at the national and local levels.

4.1.7 Nationalism

Southern nationalism was very strong and cohesive during the civil conflict period (1983-2005). This was a time South Sudanese could speak one voice and pursue one agenda. South Sudan enjoyed and embraced the Southern nationalism during the civil war for a cause. The prime cause was the quest for national identity and to strengthen the fight against the forces of economic, political and social marginalization inflicted upon the people of South Sudan by successive regimes of the Sudan.

The corollary to the above forged nationalism was founded on elimination of a common enemy. The people of South Sudan had existed as nations within defined ethnic identities. The civil conflict nationalism was as stated aimed at confronting a common force, however during the post CPA era the enemy was not in existent hence the collapse of the war nationalism, and a return to ethnic nationalism.

The sovereign state called South Sudan developed its identity as a state through its association within the nation-state. And its unique consciousness is formed by differentiation from other states. Sovereignty and the consciousness of a common identity could not be strengthened by the CPA and the interim Constitution. There have been no institutions that reconciled various nationalities within South Sudan into a realization of the new common identity and nationalism.

The post conflict Nationalism would have been institutionalized by creating frameworks and establishing institutions both at the national and grass root levels of South Sudan's society. The Civil society, religious organizations and the communities in general would have been involved to advocate for a single nationalism and South Sudan's identity.

The prospect is that there is an emerging quest for nationalism and South Sudan identity. Many youth and groups have begun to voluntarily join the defense of the country against the tribal rebel movement instigated by Dr. Reiek Machar in December, 2013 to date. There is a growing display of talents by the youth especially in cultural activities such as music, composing songs that embrace South Sudan's identity and nationalism. The government of South Sudan has initiated several committees to advocate for Healing, Reconciliation and Peace. These activities need to be encouraged so as to strengthen South Sudan's nationalism and identity.

There is also need to define the borders between South Sudan and its natives. The cultural settings of most of the people occupying areas at the extreme north has similar identity with the people of the Sudan due to too much exposure with the Sudanese communities. They also relay at economic activities of the Sudan. This people need a proactive cultural confrontation and orientation in order for those communities to integrate and identify themselves with the cultural values and ideals of the Republic of South Sudan.

The people of Blue Nile and Nuba Mountain regions continue to identify themselves with the people of South Sudan. However the government of the Sudan has no political will to address their case. The CPA had granted the people of these areas to exercise a popular consultation in order to determine their fate either to remain in the Sudan or to join South Sudan. The people of Abyei are real South Sudanese natives however the promise referendum for them to determine their fate too has not been concluded.

4.2 Challenges and Opportunities

Three years into its independence, South Sudan faces multiple challenges on political, security, and humanitarian fronts. After almost a decade of relative peace following the signing of the Comprehensive Peace Agreement (CPA) with Sudan in 2005, a political dispute within

South Sudan's ruling party, the Sudan People's Liberation Movement (SPLM), devolved into armed conflict in December 2013¹⁵⁷. The jubilation and optimism that accompanied the new country's independence from Sudan in July 2011 were eroded; in their wake, prospects for a peace dividend have become bleak that are discussed in this chapter. As independence in South Sudan has become a reality, lingering problems that may pose a challenge to the leaders of the new state persist. This chapter discusses the prospects and challenges Sudan.

4.2.1 National Cohesion and Integration

During the civil conflict there was a great disintegration between South Sudan's communities. Due to the war some people were within the liberated areas (SPLM/A controlled areas), others were within NIF (National Islamic Front) controlled areas in South Sudan and others took refuge in Northern Sudan all under the NIF Khartoum government. Some were in refugee camps in Kenya (Kakuma and Dadap), others in Uganda (Changwalli, Buyali, Yumbe, Adjumani, Moyo and other places). Some seek repatriation to a third party country overseas such as in America, Australia, Canada and other areas and others went on their own to different countries of choice.

This fragmentation affected South Sudan's founding cultural and traditional values of unity, freedom, democracy, just peace, social justice and the conception of the rule of law. The post CPA institutions did not identify these schisms since the CPA provided no strategy to address this aftermath challenges.

With the ushering in of the Government of South Sudan and the establishment of institutions many issues arise. People converge from various hideouts and others came on voluntary repatriation. The above sighted various groupings converged to South Sudan; however

¹⁵⁷Schomerns, R., and Allen, T. (2010). *South Sudan at Odds with itself: Dynamics of Conflict and Predicaments of Peace*, Development Studies Institute (DESTIN), London School of Economics and Political Science (LSE).

issues of social integration within the communities became a daunting task. This same people assumed the leaderships of the institutions. Hence this affects the performance of the institutions because of lack of harmony and social ideals within the very human resource that manages the public institutions.

Many challenging issues remained unaddressed such as the language, education issues and others. Although South Sudan's government has adopted English as a formal language and Arabic as a second language the majority of the people who had lived in the Sudan and within the NIF controlled areas remained to excess Arabic even within formal settings. People obtained education from different backgrounds and language. There is also an element of cultural shock. Those who lived and educated overseas feel different from others and those who lived in East Africa continue to identify themselves with their kinsman in East African countries whereas those who were with the Arabs continue to behave and act like Arabs.

The government of South Sudan has initiated programs for the reintegration of former combatants. The program partially helps to reintegrate some of the ex-combatants however, changing the mindset of an individual is a process and requires a lot of resources and efforts. This leaves the government incapacitated since the post conflict situations are met with daunting challenges and numerous expectations from government. Some of the ex-combatants joined civil service and others went into politics. Most of the ex-combatant continues to behave militarily. This in some way renders the militarization of public institutions and even politics.

Hence, with the loosely coherent and integrated society national cohesion becomes a daunting challenge. This becomes more challenging especially given the fact that South Sudan is in the phase of state building. Institutions are at the stage of infancy and governmental systems are yet to mature.

Hence, the government ought to take upon itself the burden of fostering cohesion and integration by instituting it within the frameworks of its system. This is succeeding in the Republic of Kenya where a commission of National Cohesion and Integration is tasked with the mandate to facilitate coherence and harmony within deferent societies after the post war conflict (2007). National cohesion and integration would provide political, social and economic stability. The government of South Sudan during the current conflict (December, 2013 to date) has established a committee lead by Amb. Kiplegat of Kenya aimed at finding out historical and existing challenges within the grassroots. The committee has been holding mini conferences from one state to the other. There is also a growing sense of national cohesion advocacy throughout South Sudan media services and religious communities. This is but a drop in the ocean. The government needs to do more by establishing a commission in this regard.

Khartoum government in the other hand has ceased to show political will in many pertinent issues such as the border demarcation, the question of Abyei, the Blue Nile and the Nuba Mountains region. The issue of the border and the Abyei became threatening despite the fact that both states had taken the case to the arbitration of the International Court of Justice (ICJ).

Several attempts had also been done under the auspices of the AU lead by the former South African President Mr. T. Mbeki. This resulted to the cooperation agreement between the two States. In 2012, the border conflict escalated into hot war due to misunderstanding in regards to the territorial ownership of the oil rich area of Panthau (as it is called in South Sudan and Heglig in Arabic). The conflict resulted to the unilateral closure of the oil pipeline by the Republic of South Sudan. However this was brought to normalcy by the AU mediation. They are also good prospect for the continued negotiation through the Cooperation Agreement. The

agreement has initiated a joint implementation committee, joint ministerial committees and joint technical committees. There is also a joint administration of Abyei. This would give chance to the two States to continue in the path of negotiations and deepened future mutual healthy relations.

4.2.2 The Flagging IGAD Peace Process and Internalization of the Conflict

In 1993, seven years after the creation of IGADD in 1986, the members of IGADD decided to make a shift in their sectorial cooperation efforts, represented by IGADD's previous mission of combating drought and boosting sub-regional development. IGADD saw the difficulty of addressing these economic issues while the political conflicts were ravaging the sub-region without first addressing these conflicts. Thus, conflict resolution was seen as a central block in the developmental process¹⁵⁸. Two "regional conflicts" were selected to be addressed by IGADD: the civil wars in Somalia and in Sudan. Sudan peace process under IGADD started in 1994 after an initial encouragement from not only the OAU and the Sudan government, but also the UN, and various international players such as EU. Nevertheless, the IGAD's Sudan peace initiative has been an uphill exercise.

It is entirely possible that neighboring countries may become involved in internal armed conflicts, whether by invitation of the established government to intervene in the conflict or by some other, lawful or unlawful means. Whatever it's precise form, external involvement of neighbouring states internationalizes the armed conflict and changes its legal character. In the Sudan, both Government and the SPLA receive support from neighbouring states. The Government has accused such states of supporting armed opposition groups and that their forces

¹⁵⁸Simone, D. (2011). *Oil Transparency Would Start South Sudan Off on Right Foot*, Foreign Policy in Focus, A Project for the Institute of Policy Studies.

have been engaged in combat within Sudan's borders¹⁵⁹. The Government also has requested war material and military advisors from external factors such as Arab and Islamic states to help them to fight the SPLA and regaining some territories. For its part, the SPLA, and its allies have received political, military and logistical support from neighbouring states for the purpose of toppling the regime. Such interventions have political, social and economic implications. However, the purpose of this paper is, in the absence of a declaration of war on the Sudan by its neighbours, what are the consequences of the involvement of Sudan's neighbours in the characterization of the armed conflict for the purposes of applying the Geneva Conventions and the customary laws of wars¹⁶⁰. The outcome of such characterization is important for our purpose, as parties to the conflict will benefit from protection afforded by the whole Geneva Conventions applicable in international armed conflicts rather than the limited protections in internal wars.

The war of liberation in Southern Sudan has been described as a "Civil War" between the Arab-Muslim North and the African non-Arab-Muslim south in which the former seeks to superimpose itself cultural values over the latter. From the Southern Sudan frame of reference (worldview) the war is not a "Civil War" but rather a war of emancipation or de-colonization demanding the right of self-determination¹⁶¹. By virtue of this right, the people of South Sudan shall determine their political destiny, economic, social, and cultural well-being and the right to development. The South has been for establishment of a federal system as an alternative of sharing power and resources and democratic pluralism or multipartism, and the separation

¹⁵⁹ Simon, F. (2010). *Southern Sudan: Future potential shines a torch on current shortcomings*, Standard Bank, May 2010.

¹⁶⁰The Brenthurst Foundation, (2010). *Everything is at Zero: Beyond the Referendum – Drivers and Choices for Development in Southern Sudan: A Study Report*.

¹⁶¹The World Bank, (2010). *Multi-Donor Trust Fund for Southern Sudan: Taking Stock and A Way Forward*, AFR/OPCS Implementation Support Mission.

between religion and the state. This demand has been abandoned because the Arab-Muslim North had a hidden agenda of institutionalizing a theocratic state and it is not interested in political power and wealth sharing with the South. Additionally, it has relegated the South to a permanent second-class position rather than as an equal in the process of nation building¹⁶².

4.2.3 Inevitable Relationship with the North

The nature of the relationship with the north remains the greatest challenge facing South Sudan. This relationship is characterized by confusion and the lack of a shared vision for its future. Secession effectively dissolved the sovereign dimension of the political bonds tying north to south. This is but one face of the multifaceted interconnections between the two states that are similar to those connecting Siamese twins who share the vital organs that keep them alive, and that, if separated, could result in the death of one or both of them¹⁶³.

South Sudan and Sudan share a 3 500 kilometers border, the majority of the residents of both states live along the two sides of the border, with the sources of life and livelihood for humans and livestock spilling over the border. Abyei is a living example of this interdependence¹⁶⁴. The exploitation of oil to provide the financial resources on which both countries rely is unworkable without the cooperation of both states (because of the distribution of oil industry facilities between the north and south. This makes complementarity between the two states inevitable. These reasons set the special relationship between North and South Sudan apart from all their relations with neighboring countries.

Considering the matter objectively, it is clear that the two states are inextricably linked, and thus communication and cooperation between them are unavoidable. This is emphasized by

¹⁶²William, M. (2011). Southern Sudan - Economic Security and Independence: A contradiction of Terms? *Journal of Security Sector Management*, Volume 8 Number 1, February 2011.

¹⁶³Minister of Education, (2011). *Address at the Launching of the Report on Monitoring Global Education for ALL* (EFA), Juba, June 2011.

¹⁶⁴Ibid.

statements by political leaders in the ruling parties of both countries¹⁶⁵. The facts on the ground, however, indicate that there are critical issues that have yet to be resolved, and will not be resolved just by optimistic statements by politicians. Further, tension and mutual recrimination have been the main features of the relationship of the parties to the peace agreement over the past years, despite the partnership between them.

The lessons from the Ethiopia-Eritrea experience are telling and still fresh. That partition took place with complete agreement between the countries' leaderships. Furthermore, the coalition of political and military leaders in Addis Ababa and Asmara worked together during the struggle against the imperial rule of Haile Selassie, and, later, Communist rule under Mengistu Haile Mariam¹⁶⁶. The joint success of these groups in ousting these regimes, as well the fact that the ruling elites of both Ethiopia and Eritrea share the same religious and ethnic background, did not prevent the two sides from engaging in a bitter war against each other a few years after Eritrea's independence because of the conflicting national interests of the countries. The previous alliance was transformed into a vicious enmity, one that has yet to be resolved, and the threat of war between the two states continues to loom.

This raises many questions about the future of the relationship between north and South Sudan. Despite the apparent conciliation that marked the partition process, and the mutual understanding that the two states will have to cooperate to achieve their common interests, various factors combine to provide fuel and fan the flames of war – whether directly or by proxy – between the two states¹⁶⁷. These factors include the background of ethnic and religious difference against which the partition took place, the difficulties of disentangling the interlocking

¹⁶⁵Martell, P. (2011). *South Sudan: World Leaders Welcome New Nation*. BBC - Homepage.

¹⁶⁶Francis M. (2012). *Sudan: A Nation in Turbulent Search of Itself*. The ANNALS of the American Academy of Political and Social Science 603.1 (2006): 155-62. Pg. 156.

¹⁶⁷Gettleman, J. (2011). *Sudanese Struggle to Survive Endless Bombings Aimed to Quell Rebels*. New York Times

interests of the partitioned state, the persistence of complex issues of contention that have yet to be resolved between the two countries, and conflict fuelled by regional powers competing to achieve their interests.

4.2.4 Security Challenges

South Sudan faces a range of persistent and emergent security threats that will pose challenges for years to come. The potential for localized insecurity in some areas is high. South Sudan is awash in small arms, and armed cattle raids and violent disputes over land and water rights are common. Inter- and intra-ethnic fighting claims thousands of lives annually¹⁶⁸. The SPLM was driven by an internal battle in the 1990s, largely along ethnic lines, and the ethnic grievances that sparked that conflict still lie beneath the surface of South Sudanese politics. Boundary disputes with Sudan remain a significant concern. Both sides have large numbers of troops deployed near the border, increasing the possibility that isolated skirmishes could quickly devolve into broader conflict. In the event of SAF military operations, the SPLA has limited ability to defend against air strikes.

Militias remain active in parts of the country, complicating stabilization and recovery efforts. As part of its reconciliation efforts with various southern political and armed groups South Sudan's military has absorbed a thousands of fighters from the militias, some of which were allegedly backed by Khartoum during the war¹⁶⁹. After signed of peace agreement between Sudan government and SPLM/A in 2005 several militia leaders were given amnesty.

The formerly Ugandan-based armed group, the Lord's Resistance Army (LRA), once also reportedly supported by Khartoum, continues to threaten and displace South Sudanese communities near the borders of the Central African Republic and the Democratic Republic of

¹⁶⁸Ibid.

¹⁶⁹Ibid.

Congo, although the threat it poses is localized in comparison to other armed groups. South Sudan and Uganda publicly accused Khartoum of resuming support for the LRA in 2012 and suggest that LRA leader Joseph Kony may be hiding in the border area between the South Sudan and Sudan¹⁷⁰.

The police service in South Sudan lacks the capacity to address many of these threats, leaving the SPLA to play a significant internal security role. The State Department reports that some SPLA stabilization and civilian disarmament activities have caused tensions with communities who claim that the SPLA is neither politically neutral nor well disciplined; some of these operations have reportedly resulted in displacement and deaths¹⁷¹. The State Department has also documented various human rights violations by SPLA troops. Some, but not all, of those accused of serious abuses have faced military justice.

South Sudan lacks the physical infrastructure, making it close to impossible to impose the right equipment's and resources needed for a capable justice system¹⁷². The internal conflicts between different ethnic groups in South Sudan highlights the ineffectiveness of the security sectors since it provides with evidence that they failed to protect the civilian population from such threats. They are also unable to sustain peace within different groups and assure communal peace. Lack of training and training in basic human and civilian rights has caused the inability to maintain and enforce laws and rights in society. Another weakness is the lack of institutions and personnel trained in international law, human rights and constitutional right¹⁷³. Unjust arrests, beatings, torture has become an everyday occurrence in the South Sudanese justice system. Not only has the army and the police failed to protect civilians, but they have themselves been the

¹⁷⁰UNPD, (2010). *Governors' Forum of Southern Sudan: Step toward Decentralized Governance*.

¹⁷¹The World Bank, (2010). *Sudan: Strengthening Good Governance for Development Outcomes in Southern Sudan: Issues and Options*.

¹⁷²Ibid

¹⁷³Haslie, A., and Borchgrevink, A. (2012). *International Engagement in Sudan after the CPA*.

violators of rights, using inappropriate measures of violence towards unarmed civilians. The SPLA and the SSPS continue to violate both international and national rights through their acts.

According to the human rights watch and UNMIS, due to the weak enforcement of law and rights, and the low capacity of the security forces many have lost their belief in the Justice System in South Sudan. Corruption and weak government institutions are two factors leading to increasing distrust towards the security sector actors and as a result has led to civilians taking matters of security into their own hands¹⁷⁴. This has led to an increasing supply of Small Arms and Light Weapons (SALW) throughout the country. This has a direct impact on the effectiveness on the DDR process. Seeing as people do not believe in the security sectors in South Sudan, they are going to be more unwilling to disarm themselves.

These program, was proposed to start the demobilization of 90 000 combatants in January 2006 but started as late as 2009 due to delays caused by the unwillingness of the SPLA to downsize their military forces¹⁷⁵. By the end of May 2011 there was only a 12,252 combatants who had been demobilized. A survey by the HSBA shows that almost 49% of the demobilized combatants by February 2011 (total number of 11, 022) were women. Unfortunately these groups raise yet another challenge for the success of the DDR programs. These women are not considered ex-combatants, yet according to the HSBA (2011) the vast majority was registered as ex-combatants rather than WAAF. Most commonly women were working as nurses, cooks, cleaners, most are unmarried or widows and the majority are unpaid by the SPLA. This shows that DDR commissions of south Sudan has failed to fully follow the IDDRS Standards (index for the IDDRS standards of DDR).

¹⁷⁴Mansour, K. (2003). *War and Peace in Sudan: A Tale of Two Countries*, Kegan Paul, London.

¹⁷⁵Oxfam International, (2010). *Rescuing the Peace in Southern Sudan*, Joint NGO Briefing Paper.

The unwillingness from the SPLA soldiers to voluntarily enter the DDR program is another big challenge to DDR. The time gap between being discharged and the start of the reintegration left the risk of inoccupation to big. The ill prospects of earning some form of livelihood outside the military are also a reason for an unwillingness to join the DDR process¹⁷⁶. Seeing as the SPLA has an 80% illiteracy rate many do not see leaving the army as an option. This clearly shows the lack of planning and co-ordination throughout the DDR programs. So far the DDR programs in South Sudan have been used to discharge women and other non-essential groups rather than dealing with members of the SPLA¹⁷⁷. Another difficulty is that South Sudan is already suffering from the lack of infrastructure, and harsh economic conditions. The delays of the DDR process and the unsustainable size of the SPLA has consumed almost 40% of the governments overall budget.

4.2.5 Threat of Insurgency in the New State

An internal political problem that is certain to cripplingly hamper the onerous task of nation-building is the ongoing feud among the factions in the SPLA/M. On December 15, 2013 a long standing power struggle between South Sudan president Salva Kiir and his former vice president Dr Riek Machar, had engulf the country to a new rebellion. Nonetheless they had been at odd for some time. In July, 2013 president Kiir issue presidential degree dismisses all cabinet including former vice president Machar. Machar response by accused Kiir of abusing his executive authority and publicly announced his intention to challenge president Kiir in the 2015 general elections. Tension simmered until early December, when a group of former government ministers including Machar held a press conference in Juba challenging president Kiir leadership of the party. By mid-December, 2013 SPLM party held a tense meeting to address the

¹⁷⁶Mansour, K. (2011). *Dislimbing of a Country: Death of Dream, Draft Book Manuscript*.

¹⁷⁷Salva, K. (2011). *Foundations of Foreign Policy of ROSS*, Closing Remarks at the: Conference of the MOAIC, Juba, 4 June 2011.

misunderstanding among its members, but the party fail to reach conscious that let to internal fighting within presidential guard, that had trigger a new rebellion under Dr Riek Machar. The integration of various militias groups to SPLA in 2005 had created a tribal army that believed to their master's war lord commanders most of them where fighting alongside with Khartoum government during civil war.

4.2.6 Challenge of Peace Process without Trust

Contrary to traditional African approaches to resolving conflicts which emphasise trust building, the Sudan peace process made no explicit attempt to build trust between the parties to the conflict, either during the formal negotiations, or in the post-CPA period. Moreover, while traditional approaches attempt to reach out to people in conflict and engage them in confidence and trust building exercises, this was entirely absent in the Sudan IGAD peace process. While it is not clear that trust could ever have developed between the parties, it is clear that it could only come about through extensive meetings and debates and not through a resort of the mediators to legalize, the imposition of strict time-tables, and the establishment of a vast array of commissions and other bodies. This difference is best illustrated by comparing the Naivasha and Wunlit processes.

The latter was carried out by southern Sudanese churches and traditional leaders to overcome years of conflict and hostility between the Dinka and Nuer, and by building trust through the airing of grievances and the introduction of healing processes it contributed enormously to reconciliation between the two tribes. Although weakened as a result of modernization, a recent study of conflict management and resolution in the Horn found

indigenous modes of conflict resolution and their emphasis on reconciliation frequently highly effective¹⁷⁸.

However, neither the SPLM nor the GoS wanted civil society and the traditional authorities, who would have highlighted the issues of trust and reconciliation, to have a role in the peace process and the mediators and the US led quartet appeared to share these sentiments. A Truth and Reconciliation Commission along the lines of that in South Africa was widely supported by civil society, but in the end it was written off by Garang and Ali Osman who held that it would undermine the peace process and clearly did not think they had to play the role of democratic politicians and sell the agreement to their constituents. Not only did the parties not trust one another, but they also did not trust the people of Sudan. As a result, no constructive efforts were made during the course of the peace process or since the signing of the CPA to seriously confront the pain, trauma, bitterness, and distrust that the war inflicted on the population. And this failure constitutes one of the biggest threats to the sustainability of the peace process.

While trust did develop over time was between Special Envoy Sumbeiywo and the negotiating teams and there was clearly trust within the Secretariat, at almost every other level it was absent. There was frequent tension, if not distrust, between Sumbeiywo and the observers, although that difficult relationship may have served to demonstrate to the parties that the special envoy was committed to protecting them from outside interests and hence to cement his ties with them. However, the periodic difficulties between Sumbeiywo and the observers masked a high level of agreement between them on the course and objectives of the mediation. There were also many tensions between the parties and the observers. The SPLM generally viewed the observers

¹⁷⁸Cliffe, L. and White, P. (2002). *Conflict Management and Resolution in the Horn of Africa*. CiruMwarua and chmeidi, Suzanne. Early Warning and Conflict Management in the Horn of Africa. Lawrenceville NJ. Red Sea Press.

in a positive light, although one member considered them weak and ineffectual, while the GoS saw them as biased and interfering.

However, more important trust never developed between the parties, and on the surface this is surprising since the Sudanese of both the north and south are known for their capacity to maintain good personal relations across political and other divides. But the insistence from the beginning by the SPLM/A leadership that they needed an agreement which would permit them to maintain their army through the entire peace process could not be a more stark statement of their distrust of the GoS. Indeed, in rejecting the notion that the UN would protect the south from any violation of the CPA, Dr. John Garang said, 'Our guarantee is organic. The fact that Southern Sudan will have its own separate army during the interim unity in addition to the integrated forces and other security forces is the only fundamental guarantor and indeed the cornerstone for the survival of the Comprehensive Peace Agreement'¹⁷⁹.

The SPLM/A viewed the GoS as the worst in a long line of northern governments that lied to southerners and dishonored agreements. As a result, they were constantly on their guard and suspicious. The GoS in turn viewed the SPLA's capture of Torit during the negotiations as indicative of their lack of commitment to the process. They also pointed to the rising power of the Darfur-based Sudan Liberation Movement/Army (SLM/A) that was supported and encouraged by the SPLA as proof that it was talking peace but had not disavowed the option of over-throwing the government. Moreover, they never doubted the separatist sentiments of most of the SPLM negotiating team.

But significantly there was also distrust within the negotiating teams. This was less evident on the SPLM/A side where Dr. John Garang maintained a strong hold over his

¹⁷⁹ AropMadut -Arop. (2006). *Sudan's Painful Road to Peace*. A full story of founding And Development of SPLM/A, USA

colleagues during the course of the negotiations. However, the lack of trust between Dr. John and different elements of civil society and other southern parties largely explains the SPLM/A's opposition to their participation in the peace process. And that also applied to the NDA. Distrust and discontinuity was more apparent on the GoS side. Not only did they have a large number of negotiating team leaders over the course of more than a decade, and each had their own style of leadership, but they also had markedly different approaches to fundamental issues. That was most apparent when the GoS's Ali Al-Haj came close to endorsing self-determination for the south and entertaining a compromise on the issue of Shar'iah during the first rounds of negotiations in the mid-1990s, only to be withdrawn from the talks and for the government to emphatically reject self-determination and any compromise on Shar'iah. (The fact that these compromises would be at the core of the CPA makes clear that Ali Al-Haj was not mistaken, but he did not have the backing, trust, and understanding of his colleagues). And during the late 1990s the NIF divided between the Bashir and Turabi wings which had different approaches to these issues.

There were also markedly different attitudes to basic issues between Ghazi Salahdien who oversaw the agreement on the Machakos Protocol and First Vice President Ali Osman Taha over elections (the former preferred them sooner and Ali Osman later), security arrangements (Ghazi Salahdien preferred a continuing role for the national army throughout the interim period and Ali Osman accepted its withdrawal in the second year), a political agreement with the SPLM/A (Ghazi Salahdien was opposed, while Ali Osman supported it), and other issues. And just as Ali Al-Haj was condemned by his colleagues for his concessions, Ali Osman was also accused of giving away too much in the negotiations.

Distrust not only affected relations between the various actors in the peace process, but is also reflected in their output, the protocols. Indeed, the peace process was shaped by the Anglo-American legal culture where law and legal procedures are emphasized in the absence of trust and indeed, one SPLM negotiator said trust was not necessary to reach an agreement. Seemingly every issue and contingency is identified and catered for in the protocols and the result is a massive and complex CPA, which is hard to understand and its implementation is extremely difficult to assess. Within the Anglo-American legal culture alleged breaches of an agreement are referred to accepted judicial bodies which have both the capacity to rule on the complaints and to order policing authorities to ensure their rulings are implemented. However, no such accepted judicial organs or police exist in Sudan and hence the resort to this sophisticated legal culture in the absence of trust has largely proved ineffective.

The last months of the peace process were devoted to working out the details of the implementation of the agreement (known as the modalities of implementing the peace), and more than at any stage of the peace process this period emphasized the lack of trust between the parties. One journalist respondent referred to these documents as the ‘modalities of distrust’ as the representatives of the SPLM and the GoS set about giving the peace agreement a strong legalistic character with the formation of commissions and committees and the agreement on a multitude of time-tables. In retrospect one of the observers said this emphasis on legalism was a ‘waste of time’ and held that more time in the negotiations should have been devoted to agreeing on principles. Although considerable effort was to go into the implementation modalities, they were to prove to be one of the major weaknesses of the entire peace process since there was less than full commitment to them and no recourse to any judicial body with the authority to issue punitive measures when they were breached.

While trust cannot be expected at the start of negotiations between parties who have long been at war, the experience of the Sudan IGAD peace process is that if trust is not developed at some point, the deliberations and resulting agreement will remain highly unstable. In this light a consideration of the problem of the SSDF in the peace process is instructive. Although international intervention in the peace process was premised on the desire to end human insecurity in southern Sudan, by stipulating that the OAGs in the south had to be disbanded within one year of the signing of the CPA (and that largely referred to the SSDF) the Security Arrangements Protocol of the CPA had the initial effect of raising tensions between the SPLA and the SSDF¹⁸⁰. While the GoS wanted to use the SSDF to undermine the peace process and appeared to know that it could not be dissolved within one year, Garang consistently opposed the integration of the SSDF into the SPLA and appeared not to appreciate the danger of the situation. With Garang vehemently opposed bringing the SSDF into the peace process, and given strong backing by the US, there was no prospect that the problem posed by the SSDF would be acknowledged and acted upon. While some US allies at the negotiating table foresaw the impending danger, they became increasingly exhausted by the lengthy process and like the Americans just wanted to see the peace agreement signed so they could go home, and in fact many of them left the negotiations even before its formal end. In any case, the decision to dissolve the SSDF set the organisation on a collision course with the SPLA. The only reason this did not happen is that with the death of Dr. John, Salva Kiir came to power with a different and conciliatory approach to dealing with the SSDF as represented by the Juba Declaration.

The Juba Declaration was in the first instance a response to the widespread demand of southern Sudanese that their leaders resolve their differences peacefully and end the insecurity

¹⁸⁰Kenny, Gary. (2004). *Beyond a North-South Settlement: Addressing the problems of marginalization in Sudan*. Africa Files.

that made their lives intolerable. With only minimal input from the Kenya based Moi Foundation SalvaKiir from the SPLA and Paulino Matieb from the SSDF came together and quickly established a relationship of trust and agreed on the principles underlying their agreement¹⁸¹. Even without a formal agreement tensions between the SSDF and the SPLA rapidly declined. The final document, the Juba Declaration of 8 January 2006, is short, easily understood, and without legal jargon. Unlike the CPA, in the year since it was signed it has resulted in a marked decline of insecurity. The lesson to be drawn is that the trust that underpinned the Juba Declaration is a more effective means to overcome tensions and disagreements between former enemies than resorting to legalise and unaccepted institutions which was the course followed in the IGAD peace process.

While key elements of the power-sharing and wealth-sharing protocols, together with the commitment to conduct a referendum on self-determination, did address major concerns of people in the south and hence provided a basis for ownership, the peace process did nothing to build trust between southerners and northerners. People in the north had trouble identifying with the peace process and the CPA because they saw few benefits in it accruing to them. Expressing the peace process did not produce trust between the negotiating parties, and they in turn gave trust a low priority and rejected measures which would have engaged the broader population in a collective healing exercise and encouraged trust.

¹⁸¹Young, J. (2006). Eastern Sudan: Caught in a Web of External Interests. *Review of African Political Economy*. No. 109. Vol. 33. 2006.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This study sought to examine the prospects and pitfalls of Post Referendum negotiations in South Sudan. It sought to: discuss the post-referendum issues in South Sudan; investigate the pitfalls of post-referendum negotiations between South Sudan and Sudan; and discuss the prospects of post-independence of South Sudan. The study set out two hypotheses, since the last referendum in South Sudan, Pitfalls have not significantly affected South Sudan negotiations; and the prospects of post-independence of South Sudan have no significant influence on peace negotiations, and examined them within the theoretical framework. This chapter brings to end this study by revisiting the findings of the study and answering the study hypotheses.

5.1 Summary and Conclusions

On objective one which relates to the post-referendum issues in South Sudan, the study identified that the borderline belt is an issue in South Sudan. The borderline belt is the most potentially explosive. It is around the oil-producing region of South Kordofan. It found that four areas were in dispute in South Sudan which are issues in the country. The four areas are: the borderline running north-south between the South's Unity State and the North's Southern Kordofan, whether the Bahr al-Arab river forms the exact border between the South's Bahr el-Ghazal, the northern-most border separating Renk County in Upper Nile from the North's White Nile state, and Darfur in the North which river forms the exact western-most dividing line between Western Bahr el-Ghazal and Southern Darfur.

The study also found sharing of resources as another issue in South Sudan. The resources the study found are oil & revenues and Nile waters. It found that both the Sudan and South

Sudan depend heavily on oil revenues, and independence alerted resource ownership and current wealth-sharing arrangements. The study found that water crisis may well develop between Sudan and South Sudan. Once agricultural projects in the South are rehabilitated, they will need water. Water consumption would also increase with the return of displace people and refugees. Southern Sudan will not be able to change the facts of geography, nor the direction of the flow of the Nile River, nonetheless their position will have a tremendous impact on the politics of the Nile and the disputed sharing of Nile waters. Sudan, Egypt and the group of upstream countries would all work hard to bring the new state into their camp.

On objective two which relates to hypothesis one; since the last referendum in South Sudan, Pitfalls have not significantly affected South Sudan negotiations, the study found lack of inclusivity of interested parties in southern Sudan, notably civil society and political parties, claimed to be comprehensive. The lack of inclusivity of the peace process means that the Sudanese people could only pass judgment on the CPA through national elections, but the elections were delayed and the difficulties in demarcating the north-south border and ending the conflict in Darfur resulted in a further postponement. The study found that peace process never developed trust and understanding between the parties, and in its absence and the failure to commit to wide-ranging reconciliation, the mediation followed Western practice and emphasized legal requirements and time-tables which affected the peace process.

The study also found that the narrow focus of the mediation and the emphasis on reaching an agreement meant that the process's implications were not fully appreciated. While international engagement in the peace process was necessary, the mediation failed to appreciate that this engagement posed a threat to the sovereignty of Sudan region. This effect affected the peace process to a great extent. The neighboring countries which were involved in the peace

process also become involved in internal armed conflicts, whether by invitation of the established government to intervene in the conflict or by some other, lawful or unlawful means. External involvement of neighbouring states internationalizes the armed conflict and changes its legal character. However, the study found that the Government of South Sudan accused such states of supporting armed opposition groups and that their forces have been engaged in combat within Sudan's borders. This also affected the peace process in which the accused states were involved.

Revisiting the first hypothesis which states that since the last referendum in South Sudan, Pitfalls have not significantly affected South Sudan negotiations, it is evident from the findings that the Pitfalls have significantly affected South Sudan negotiations. The study therefore rejects the null hypothesis and accepts the alternative hypothesis: Since the last referendum in South Sudan, Pitfalls have significantly affected South Sudan negotiations.

On objective three which relates to hypothesis two; the prospects of post-independence of South Sudan have no significant influence on peace negotiations, the study found that the IGAD Peace Process and Mbeki Panel, under the ceasefire deal that was signed on 23 January 2014, enabled the Government and rebel forces to agree to halt military operations immediately, and to cease attacks on civilians which brought hope in South Sudan for new peace deal that was imminent to be achieved. However, the study found that both sides were reported to have breached the truce on 25 January 2014. The study found that IGAD Partners Forum (IPF, the successor of the Friends of IGADD) and civil society groups got the IGAD states to agree to the establishment of a permanent Secretariat and the appointment a special envoy. In addition, IGAD turned its attention to gaining, Western financial and political support and ensuring that other peace processes were not endorsed by the international community.

The role of the international community has helped in peace processes in South Sudan. The study found that through policy dialogue with the South Sudan government and development partners, JICA will make its policy better understood and appreciated. JICA places particular emphasis on cooperation that contributes to "economic development," one of four pillars of the national development strategy of the Government of South Sudan (the others being security, governance and social & human development). The study found that The United States recognized South Sudan as a sovereign, independent state on July 9, 2011 following its secession from Sudan and played a key role in helping create the 2005 Comprehensive Peace Agreement that laid the groundwork for the 2011 referendum on self-determination. It found that the U.S. Government is the leading international donor to South Sudan, and is providing significant humanitarian assistance to the hundreds of thousands of South Sudanese citizens displaced or otherwise affected by the crisis.

Revisiting the second hypothesis; the prospects of post-independence of South Sudan have no significant influence on peace negotiations, it is evident from the findings that the prospects of post-independence of South Sudan have a significant influence on peace negotiations. The study therefore rejects the null hypothesis and accepts the alternative hypothesis; the prospects of post-independence of South Sudan have a significant influence on peace negotiations.

5.2 Recommendations

The study recommends that the South Sudan and Sudan must continue negotiations. It is in the best interest of the two nations to maintain peace and establish mutually beneficial interactions. The divorce was inevitable but so is the need for continuous engagement. Unfortunately, the leadership's behavior in both countries over the past year has been largely

uncompromising as both have taken hard and sometimes irrational positions. In the process, both governments are undermining their countries' prospects for development. The peace dividend that was expected to benefit both nations, especially South Sudan, is being squandered at a very high rate.

Other nations can help as third party mediators, but the impetus is left to the South Sudan. There is no question that the CPA has achieved remarkable success, but this success can be negated if the issues discuss even between parties with differences that may appear irreconcilable. There are already various ongoing efforts to bring both countries to a negotiated settlement but these need to be ratcheted up and, like the CPA, should engage more players with the African Union taking the lead. For example, the U.N. Security Council has unanimously, with unexpected votes from the People's Republic of China and the Russian Federation, approved a resolution that threatens economic and diplomatic measures against South Sudan and the Republic of Sudan if further violence occurs. However, the key players remain South Sudan and the Republic of Sudan the two must accept the reality that only give and take can bring forth durable resolution to these contentious issues.

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