

**UNIVERSITY OF NAIROBI**

**DEPARTMENT OF HISTORY AND ARCHAEOLOGY**

**SUDAN COMPREHENSIVE PEACE AGREEMENT AND ITS  
IMPACT, 2005-2014**

**BY**

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## DECLARATION

This is my original work and has not been submitted for a degree in any other University.

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This work has been submitted for examination with my approval as the University supervisor.

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**DR. HERBERT MISIGO AMATSIMBI**

## **DEDICATION**

To Granny Peres Apando (1932-2007), Dad Charles Ruben Apando (1947-1999). Because you did not live to see me complete this work, I dedicate it to you.

To Momma Joyce Apando, you laid the foundation for my education, you taught me tenacity and inculcated in me the virtue of continuously searching for knowledge.

And to all those who are dear to my heart.

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## **ABSTRACT**

This study examines the Sudan Comprehensive Peace Agreement (hereafter CPA) and its impact, 2005-2014. The study recognizes the fact that despite the signing of the CPA between the Government of Sudan (hereafter GoS) and the Sudanese Peoples Liberation Movement/Army (hereafter SPLM/A), and successful secession of South Sudan, the conflict between Sudan and South Sudan seem to be far from over. The failure to translate the CPA to end the conflict in Sudan and South Sudan raises the question whether the CPA was comprehensive and whether it was implemented or not and, the impact of its implementation/lack of implementation.

The study is guided by three main objectives: to examine the Sudan peace processes and the formulation of the CPA; to assess the implementation of the CPA in Sudan/South Sudan and; to evaluate the impact of the CPA in Sudan and South Sudan. The study employed the following three research hypotheses: the formulation and implementation of the CPA was influenced by the interests of belligerents, the CPA did not address long term structural problems in Sudan/South Sudan and, the poor implementation of the CPA led to the failure of its mission. The theoretical framework combines insights from two different perspectives focusing on structural and systemic theories. Conflicts in Sudan were considered embedded on unjust and non-equitable legal, political, social and economic structures. The impact of these conflicts transcended the regional and international boundaries, leading to the intervention of the IGAD into the conflict.

The research employed both secondary and primary data but relied mostly on secondary data. The secondary sources used were books and journals articles, print and electronic media and other relevant papers. The primary sources utilized were mainly the Sudan CPA, oral interviews of the people identified and the use of questionnaires. Sampling of respondents was through purposive and snowballing method. The data collected was analysed using qualitative approach. This method provided ways of examining, comparing and interpreting themes on which conclusions were drawn. The results are shown in terms of explanation in a narrative form.

The study reveals that though the CPA brought an end to the Sudanese North-South civil war, neither peace nor democracy have been achieved in Sudan and South Sudan. Instead, conflict is still persistent in many areas of Sudan and South Sudan since the end of the civil war. The study

shows that the conflict in the two countries is the direct result of the failure of the CPA to address Sudan's issue of sovereignty beyond the North/South divide, both in its design and implementation.

Six years after the signing of the CPA, a referendum was held in the South and close to 99% voted for independence. South Sudan became a republic on July 9, 2011. Constructing a new nation still recovering from a civil war has been a challenge for South Sudan. These include, inter alia, security issues, poverty, economic productivity, and the development of human resources, service delivery, resettlement and reintegration of IDPs/returnees/refugees, DDR and the establishment of democratic institutions to ensure popular participation in the government. The end of the struggle with the North not only deprived Southern leaders of their historic common enemy, but also opened the way for internal divisions to re-emerge. Security was a major concern in the North-South relationships in the implementation of the CPA. An effort to construct a security system that guarantees political stability and economic prosperity between and within the countries has continued to be a challenge. Following the secession of South Sudan, the Khartoum government has had to determine how to govern alongside a new country carved out of it. The loss of oil revenue following the separation of the South has had a negative impact in the budget, presenting a huge economic and political challenges to the government.

Taken together, these findings will build a deeper understanding of the Sudan CPA for the purposes of informing other research being carried out over the next several years. The study hopes to make a contribution by providing additional and novel insight in the implementation and impact of the CPA in Sudan and South Sudan. The research will, therefore, be of both scholarly and policy importance.

## **LIST OF ABBREVIATIONS AND ACRONYMS**

ABC	Abyei Boundary Commission
AEC	Assessment and Evaluations Commission
AU	African Union
AUHIP	African Union High Level Implementation Panel
BBC	British Broadcasting Corporation
BLB	Border Line Belt
CPA	Comprehensive Peace Agreement
DDRR	Demobilization, Disarmament, Reintegration, Reconciliation
DOP	Declaration of Principles
DPA	Darfur Peace Agreement
DUP	Democratic Unionist Party
EAC	East African Community
ELF	Eritrean Liberation Front
EPLF	Eritrean People's Liberation Front
EPRDF	Ethiopian People's Revolutionary Democratic Front
ESPA	Eastern Sudan Peace Agreement
EU	European Union
GNU	Government of National Unity
GoS	Government of Sudan
GoSS	Government of South Sudan
HAC	Humanitarian Affairs Commission
HIPC	Highly Indebted Poor Countries
ICC	International Criminal Court
ICF	Islamic Charter Front
ICG	International Crisis Group
ICSS	Interim Constitution for Southern Sudan
IDPs	Internally Displaced Persons
IGAAD	Inter-Governmental Authority on Drought and Development
IGAD	Inter-Governmental Authority on Development

IGNU	Interim Government of National Unity
IMF	International Monetary Fund
IPF	IGAD Partner's Forum
JEM	Justice and Equity Movement
JIPU	Joint Integrated Police Unit
JIU	Joint Integrated Units
LRA	Lord Resistance Army
MNR	National Resistance Movement
NBI	Nile River Basin Initiative
NCP	National Congress Party
NDA	National Democratic Alliance
NDI	National Democratic Institute
NEC	National Election Commission
NIF	National Islamic Front
NISS	National Intelligence and Security Service
NLC	National Liberation Council
NRM /A	National Resistance Movement/Army
NUP	National Umma Party
OAG	Other Armed Groups
OIC	Organization of The Islamic Conference
PCA	Permanent Court of Arbitration
PCP	Popular Congress Party
PDF	Popular Defence Force
PNC	Popular National Congress
PPLF	Political Parties Leadership Forum
RoSS	Republic of South Sudan
SAF	Sudan Armed Forces
SANU	Sudan African National Union
SCP	Sudan Communist Party
SLM/A	Sudan Liberation Movement/Army
SPDF	Sudan People's Democratic Front



SPLM/A	Sudan People’s Liberation Movement/Army
SPLM-DC	SPLM-Democratic Change
SSLM	South Sudan Liberation Movement
SSRC	South Sudan Referendum Commission
TBC	Technical Boundary Commission
TMC	Transitional Military Council
TTA	Three Transition Areas
UCDP	Uppsala Conflict Data Program
UDF	United Democratic Front
UN	United Nations
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in South Sudan
USAP	Union of Sudan African Parties
USIP	United States Institute for Peace

## WORKING DEFINITIONS

Conceptual understanding of the terms used in this study is necessary as they will make the understanding of the study much easier. The relevant concepts are operationally defined as follows:

### **Conflict**

Coser, Lewis defines conflict as a struggle over values and claims to scarce status, power and resources.<sup>1</sup> The struggle seeks to neutralize, injure or eliminate their rivals. The definition sees conflict as a struggle over values and is goal directed.

### **Peace**

Michael, Banks considers peace as harmony, justice and process of conflict management.<sup>2</sup> These views of conflict concede that conflict is endemic and is based on the needs and values of people. These values determine their physical survival, spiritual aspirations, possessions, belongingness and identity. Threat to these values is interpreted as threat to the community as an entity. Peace is, therefore, a volatile state of affairs and its management is part of conflict management strategy.

### **Peace Agreements**

These are commitments agreed upon by two or more parties to carry out specific tasks and obligations with the ultimate goal of realizing a peaceful relationship. Peace agreements are drafted on the principle of mutual trust. It is on this basis that they are assumed to be binding in international law.

### **Peace-making**

Action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nation's. It is thus a diplomatic effort to

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<sup>1</sup> Lewis, Coser. (1957): "Social Conflict and the Theory of Social Change," *British Journal of Sociology* Vol.8., pp. 190-297.

<sup>2</sup> Michael, Banks. (1987): "Four Conceptions of Peace," in Michael Banks, ed., *Conflict in World Society: A new Perspective on International Relations*; Brighton, Wheat sheaf Books., pp.259-269.

move a violent conflict into nonviolent dialogue where differences are settled through representative political institutions.

### **Peace-building**

This is a post-conflict activity to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict.

### **Negotiation**

Negotiation is the fundamental form of dispute resolution. It involves the voluntary coming together of disputants for the purpose of reaching a compromise resolution. It is a non-coercive and voluntary process that disputants seek to map out the future of their relationship.

### **Mediation**

Mediation precedes peace agreements and is one of the primary methods of alternative dispute resolution. It involves the intervention of a third party in the mediation process. The mediator's role is to assist the disputing parties to communicate effectively, analyze the dispute and develop a mutually acceptable solution. Mediation is likely to lead to a successful peace agreement if the conflict has gone on for some time and the efforts of disputants have reached an impasse and neither of them is prepared to bear further costs or escalation of the dispute.

### **Conflict Settlement**

Conflict management forms part of the wider conflict management processes. It refers to the elimination of differences of interests either by negotiation, compromise or by an authoritative decision made by a court. Conflict settlements provide solutions to a particular problem solving differences in interests or a dispute over rights. Accordingly, a settlement does not address the causes but it merely adjusts and regulates conflict relationships.

### **Ceasefire**

It is a cessation of military operations and all armed actions between belligerents. It is a brief, dynamic and irreversible process of predetermined duration, which must be observed and implemented in strict terms and conditions of the peace agreement.

## **Demobilization**

This is a process of deactivating troops while in a state of mobility in a theatre of operation. This may be achieved through the reduction of the alert state from war to peace status. Mats, Berdal defines demobilization as the formal disbanding of military formations or a process of releasing combatants from a mobilized state.<sup>3</sup> This process may involve the complete disbanding of military units or their reduction in size. It helps create an environment for confidence and security building prior to disarmament.

## **Disarmament**

This involves the removal of the means of civil war prosecution by keeping away weapons from combatants. It is critical that there is adequate verification of the demobilization and disarmament process to guarantee security.<sup>4</sup>

## **Reintegration**

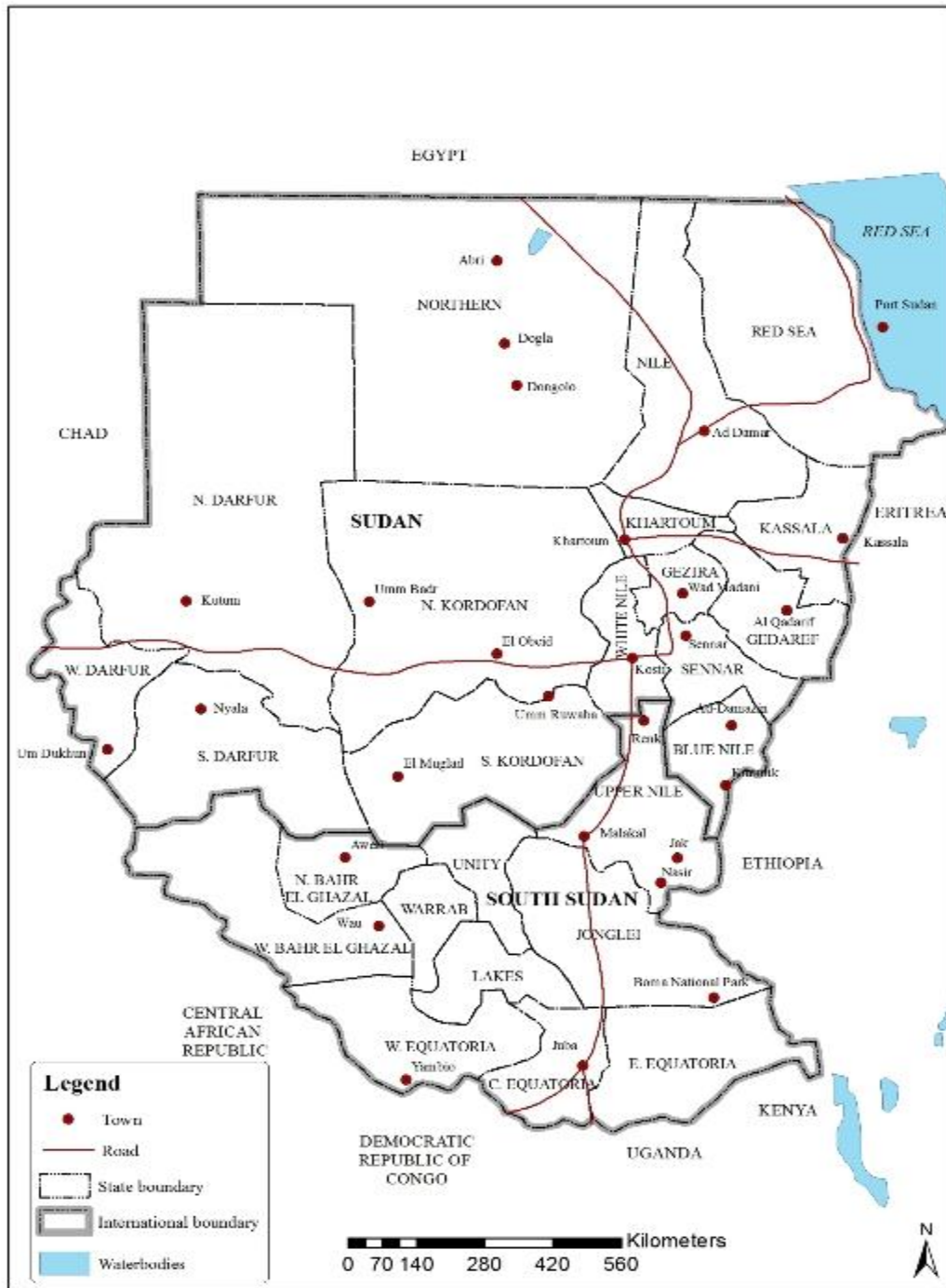
This is the stage of deployment characterized by the service member's re-entry into his/her daily life as experienced prior to deployment, or into a new civilian life, including the domains of work, family, and personal experiences.

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<sup>3</sup> Mats, R. Berdal. (1969): *Disarmament and Demobilization After civil Wars, Adelphi Paper no.303* (London: International Institute of Security Studies, London: Oxford University Press), p.39.

<sup>4</sup> Ibid.

# MAP OF SUDAN AND SOUTH SUDAN



Source: GIS Department of Geography, University of Nairobi

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# CHAPTER ONE

## BACKGROUND TO THE STUDY

### 1.0 Introduction

Until January 2011, Sudan formerly known as ‘the Sudan,’ was the largest country in Africa and the 10<sup>th</sup> world wide with a total surface area of 2,505,813 square kilometres. Prior to separation, it had 597 tribes that speak more than 400 languages and dialects, practicing a variety of religions. Islam, Christianity and African Traditional Religions were the main religions in the country. Moreover, the combination of Hamites, Semites, Nilotes, Bantu and other ethnic groupings resulted in one of the world’s most heterogeneous societies that was almost a microcosm of Africa.<sup>5</sup> The country is bordered by Egypt to the North, Red Sea to the North East, Eritrea and Ethiopia to the East, Kenya and Uganda to the South East, Democratic Republic of Congo to the South West, Chad to the West and Libya to the North West.

Sudan had been in conflict for almost half a century with itself since 1955. Until 2005, there had been unending conflicts between the South and the North. During the pre-independence constitutional talks, the South had expressed its desire for separate development from the Muslim North, but the British administrators ignored such wishes. In 1956, on the eve of independence, the Southern army staged a rebellion and killed many Northerners living in the South. The government responded by unleashing the Northern army against Southern civilians who perished in thousands. This marked the beginning of the first Sudanese civil war. In 1983, President Jafaar Nimeiri introduced Islamic law in the entire country including the largely non-Muslim South. This, compounded with other grievances, pushed the South into a civil war, marking the beginning of the second Sudanese civil war.

Several attempts were made since the war started in 1955 to reach an agreement between the warring parties but without much success. After along and protracted set of negotiations under the Inter-Governmental Authority on Development (hereafter IGAD), the GoS and the SPLM/A finally agreed peacefully to end the longest war in contemporary Africa, leading to the signing of

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<sup>5</sup> John O. Voll. (Ed): *Sudan: State and Society in crisis*; Bloomington and Indianapolis, Indiana University Press (1991), p.1.

the CPA on January 2005. The CPA consisted of six Protocols including the Machakos Protocol (2002), the Power Sharing Protocol (2004), the Wealth Sharing Protocol (2004), the Resolution of Abyei Conflict (2004), the Resolution of the Conflict in Southern Kordofan and the Blue Nile States (2004), and the Security Arrangements Protocol (2003). It also established a six-year transition period, autonomy for Southern Sudan and a unity government in Khartoum. Under a new constitution that emerged from the CPA, national elections were to be held in 2009, followed by a referendum on independence for the South in 2011.

### **1.1 Background to the Sudan Comprehensive Peace Agreement**

The Sudan entered the twenty first century mired in not one, but many civil wars. The conflict was the longest running in Africa. Its genesis goes back to the historic relations between the North and the South but since then, the conflict has remained dynamic with the contentious conflict precipitating issues changing form with time. The conflict between the Northern and Southern Sudan has usually been misunderstood because the historical roots of the conflict have been misrepresented.<sup>6</sup> Religion, local perceptions of race and social status, economic exploitation and, colonial and post-colonial interventions were all elements in the Sudan's civil war, but none by itself, fully explains it. The two most significant developments contributing to the North-South divide were the impoverishment of some areas of the Northern Sudan through new form of taxation and land ownership, which then contributed to the dramatic expansion of slave raiding and slave-owning. Thus hardship created by the government's economic policies in the North contributed to the exploitation and subjugation of the South, and gave certain sections of the Muslim and Arabic-speaking population of the North a personal stake in its subjugation, a pattern which would be repeated in the 1980s and 1990s.<sup>7</sup>

The civil wars in Sudan started prior to the country's independence during the last days of the Anglo-Egyptian colonial administration (1898-1956). According to Mohammed, following the re-conquest of Sudan in 1898 the British administration faced two urgent tasks in the South of

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<sup>6</sup> Douglas, H. Johnson. (2003): *The root causes of Sudan's Civil Wars*; Nairobi, African Educational Publishers., p.1.

<sup>7</sup> Ibid., pp.4-5.

the country: the establishment of an administrative system and the pacification of hostile tribes.<sup>8</sup> As in many other African colonies, the philosophy adopted for administering the country was that of “indirect rule,” interpreted by Mohammed as “implying the protection of people against change,” where the administration was left to the native authorities under supervision of the government.<sup>9</sup> This applied equally to the North and South.

The British-constructed state-like its predecessor- was designed in the first instance to maintain security, an emphasis that did not change with independence. With improved security, the British constructed a series of dams and water works on the Nile, including the Gezira Scheme (the largest cotton farm in the world), which served to meet the needs of the Lancashire textile factories. As a result, the tribes of central Sudan and in particular the Jalien, Shaggiya and Dangala, who lived along the river North of Khartoum, received the most benefits from British colonialism, the best opportunities for education and held the most positions in the colonial state. Indeed, state support for favoured political parties, which was going to be controversial during the 2010 elections and 2011 Southern referendum on independence, was first employed during the colonial period.

Development, in turn, produced a class of tenant farmers, industrial and transport workers and urban professionals that made for an increasingly sophisticated and politically active community that began to assume the attributes of a nation.<sup>10</sup> This was in stark contrast to other parts of Sudan, where British policy until the eve of independence was one of benign neglect and a singular focus on security. The South was administered as virtually a separate state after the British introduced ‘closed districts’ which precluded Northern merchants and others from going to the South, restricted Arabic and Islam, and prepared for the South to join the British colonies in East Africa. This decision and the limited attention given to education and development in the territory were only changed on the eve of independence. The focus of development in a relatively small area of central Sudan and the turning over of state power to its leaders in 1956 caused

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<sup>8</sup> Mohammed, O.B. (1968): *The Southern Sudan: Background to the conflict*, Khartoum; Khartoum University Press., p.5.

<sup>9</sup> Ibid.

<sup>10</sup> John, Young. (2012): *The Fate of Sudan: The Origins and Consequences of A flawed Peace Process*, London: Zed Books., p.3.

resentment throughout Sudan, but particularly in the South where the tiny indigenous elite viewed the handover as exchanging one colonial authority for another.<sup>11</sup>

Sudan at independence was characterised by the wealth of the few and the poverty of the majority, leading to competition for resources. This led to ethnic based political struggles and when these failed to make headway, to armed struggles. During the closing days of Anglo-Egyptian rule (1898-1956), societal anxieties and tensions, coupled with administrative overreactions and ineptness, created a highly volatile situation in Southern Sudan.<sup>12</sup> The policy of separate administration and separate development for the Northern and Southern Sudan which the government had followed for nearly twenty years meant that there were few Northerners in the new politically active class who had any practical experience of the South; nor were there many Southern Sudanese who shared the experiences or outlook of this class. It is not necessarily the case that Northerners and Southerners would have developed a common national understanding had the policy of administrative segregation never been imposed, but the gulf of misunderstanding which separated North and South was all the greater as a result of that segregation.<sup>13</sup>

The rapid increase of Northerners in the South as administrators, senior officers in the army and police, teachers in government schools and as merchants, increased Southern fears of Northern domination and colonization. This effectively sparked the civil war in Sudan which lasted until the year 2005 with the signing of the Comprehensive Peace Agreement. The conflict in Sudan occurred in two phases, often identified as first and second Sudanese civil wars. The first phase of the civil war occurred from 1955 to 1972, while the second phase, essentially a continuation of the first, occurred from 1983 to 2005.

The mutiny in Torit on 18<sup>th</sup> August, 1955 and the violence that followed for two weeks are presented as the beginning of the first civil war in Sudan. A tense situation in the mid-1950s virtually transformed it into a full scale war by the late 1950s. The factors that facilitated the rebellion are traced to the Anglo-Egyptian Condominium (1899-1956). The British policy

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<sup>11</sup> John, Young. (2012), Op. cit., p.3.

<sup>12</sup> Ali, T.M. and Matthews, R.O., *Civil Wars in Africa: Roots and Resolution* (Quebec: McGill-Queens Press), p.57.

<sup>13</sup> Douglas, H. Johnson. (2003), Op. cit., pp.25-26.

favoured the centre in Khartoum while neglecting and isolating the peripheries. The South was isolated administratively by introducing Christian missionaries and not by investing in social and economic development. The reason behind this was to create a South separate from the rest of the Sudan by hindering the assimilation of the South into the Northern Sudanese cultural sphere. Even after independence religious intolerance, political repression and social and economic neglect of the South was still rife.

The prelude to initiate rebel attacks against the Khartoum regime was decided in a meeting of politicians from the South in Kampala on August 1963. Southern politicians formally decided on violent action and founded the Anyanya. In the same year, President Milton Obote of Uganda offered to mediate on the North-South conflict in Sudan. The inspiration for Obote to mediate in the Sudanese conflict was prompted by the large number of Southern Sudanese refugees in Uganda. The Obote mediation did not bear fruit because the GoS was determined to pursue a military option for the Southern problem. Another mediation effort was attempted by President Kwame Nkrumah of Ghana but did not succeed as well because the GoS insisted that the Southern problem was an internal Sudanese affair.

Apart from these bilateral mediation efforts attempted by statesmen from some African countries, the GoS came up with its own initiative in 1965- The Khartoum Round Table Conference.<sup>14</sup> Attended by observers from other parts of Africa, including Algeria, Egypt, Ghana, Kenya, Nigeria, Tanzania and Uganda, the aim of the conference was to work out a negotiated settlement to the Sudanese conflict. During the conference, Southerners pushed for a plebiscite to be held in the South over three issues: federation, unity with the North and separation. The GoS rejected federalism since it was seen as a step towards separation. This conference collapsed despite being attended by observers from other parts of the continent. In 1971, church organizations throughout the world under the aegis of the World Council of Churches (hereafter WCC) and All African Conference of Churches (hereafter AACC) lobbied both the GoS and the South represented by the Southern Sudan Liberation Movement (hereafter SSLM) to negotiate for peace. This led to the Addis Ababa talks under the mediation of the

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<sup>14</sup> Douglas, H. Johnson. (2003), *Op. cit.*, pp.33-34.

Government of Ethiopia.<sup>15</sup> An agreement was reached leading to the signing of the Addis Ababa Accord on 27<sup>th</sup> February, 1972. The agreement called for ceasefire, semi-independence for the South with its own parliament, all Anyanya rebels were to be granted amnesty and be absorbed in the national army, English was to be the official language in the South, all refugees were to return home and be rehabilitated.<sup>16</sup> Peace returned, the Anyanya guerrillas, thereafter, laid down their guns thus, ending the first phase of the civil war.

In the late 1970s, relations between the North and the South became weak and tensions mounted as the North marginalized the South economically. In 1983, President Jafaar Nimeiri declared all Sudan an Islamic state under Sharia, including Southern region. Nimeiri made this decision following the success of the Iranian revolution of 1979. Political developments in Iran influenced politics in Sudan when Islamist fundamentalists established political links with the Islamic Republic of Iran. As a result of these political developments in Iran, pressure was mounted on Nimeiri by Islamists trying to find political relevance in Sudan. Internal pressure forced Nimeiri to repudiate the 1972 Addis Ababa accord. The introduction of Sharia in the whole of Sudan aggrieved the South eventually leading to the second Sudanese civil war from 1983-2005.

The early 1990s saw a number of attempts by African states and the International community to mediate the entrenched conflict towards a powerful resolution.<sup>17</sup> The International community, steered by Eritrea, Kenya and Ethiopia, led an effort to bring peace to Sudan under the aegis of the IGAD in 1993.<sup>18</sup> However, despite the agreements of the early and mid-1990s, the struggle in Sudan continued largely unabated in large areas of the country past the turn of the century. Despite that record, the IGAD initiative promulgated the 1994 Declaration of Principles (hereafter DOP) that aimed to identify the essential elements necessary to a just and comprehensive peace settlement. After several years of negotiations and mediation, the CPA was finally signed on January 2005, marking the end of 22-years of civil wars in Sudan. It provided

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<sup>15</sup> Madut, A.A. (2006): *Sudan's Painful Peace*; Road to Booksurge, LLC, London. p.15.

<sup>16</sup> Wakano, K. (1985): *Coups d'etat: Revolutions and Power Struggles in Post-Independent Africa*; Nairobi, Afriscript Publishers., pp.277-280.

<sup>17</sup> Ann, M. L. (1998): *The Sudan: Contest between Relief and Development Cooperation in Sudan National Identities*; Oxford, James Currey Publishers., p.9.

<sup>18</sup> Toyin, F. and Adebayor, O.O. (2010): *Hot Spot: Sub-Saharan Africa*; California, ABC-CL10., p.8.

for six-years of autonomy for the mainly Christian and animist Southern Sudan, to be followed by a referendum on the political future of the region.

The referendum was conducted in the South between 9<sup>th</sup> and 15<sup>th</sup> of January, 2011 and close to 99% voted for independence which actualised six-months later. This created a new political dispensation and landscape in Southern Sudan. South Sudan became an independent state on July 9<sup>th</sup> 2011. For many this represented the successful culmination of a decade long peace process. Hopes were high and the enthusiasm of Southerners in Sudan reached a crescendo as the world waited to watch the flag of an African Union (hereafter AU) member go down as that of the future member went up. However successful, this was just one version of the cacophony of conflict that had bedevilled the country since its independence in 1956. In reality, some of the population of the post-war South is no more secure, unified, or productive than it was during the war period. This is despite an independence narrative claiming national unity and respect for the rights, dignity and freedoms of all peoples. In fact for reasons described in this research, there are many indicators that the drivers of internal conflict in South Sudan became only more complex and entrenched in the aftermath of the war with the North.<sup>19</sup> This research will examine the Sudan CPA and its impact, 2005-2014.

## **1.2 Statement of the research problem**

Sudan, before cessation of the South, was one of the largest and poorest countries in Africa and had political instability since independence in 1956 from Britain. The country had incessant political turmoil ranging from the North-South conflict, the Abyei and Southern Kordofan issue, the Darfur crisis, the Blue Nile Hills and Nuba Mountains issue, among others. This became a menace not only to the African continent but also the entire international community, and Kenya in particular. Hence it attracted intellectuals and academics. The Sudanese conflict has been Africa's longest running civil war. Consequently, the war has been an area of several intellectual pursuits. History as an intellectual pursuit has not been left out of these various attempts. Scholars in armed conflict and peace studies are, therefore, interested to study the CPA, a

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<sup>19</sup> Rachel, Gordon. (2012): "*In the Eye of the Storm: An Analysis of Internal Conflict in South Sudan's Jonglei State*," Working Paper 11, SLRC, Feinstein International Centre, p.9.



document signed on January 2005, ending 22-years of war between North-South Sudan and bringing some relative order in the restive country.

The CPA signed on January 9<sup>th</sup>, 2005 by GoS and SPLM/A brought an end to Africa's longest war. Six years after the signing of the CPA, the referendum was held in the South and close to 99% voted for independence, which was actualized six months later. The CPA was mandated to bring about transformational stability, eternal peace and democratic transformation in Sudan and South Sudan. However, violent conflict is still prevalent in and between Sudan and South Sudan since the end of the civil war. A critical question to ask is why the end of North-South civil war did not lead to an end of large-scale collective violence in Sudan and South Sudan. How can the extremely violent communal conflicts that have haunted the countries since the CPA be explained? As the war in Sudan and South Sudan continues, one is interested in studying the CPA and its impact on Sudan and South Sudan. Even though the various Protocols were signed, the peace process ended with most of the post referendum issues not resolved. This, therefore, leads to the question, apart from the referendum, were the other provisions of the CPA realised?

The failure to translate the CPA to end conflict in Sudan and South Sudan raises the question whether the CPA was comprehensive and whether it was implemented or not and what were the impact of its implementation/lack of implementation? There has been no in-depth and systematic examination of the CPA and its impact on Sudan and South Sudan. Issues of post-peace agreements, monitoring, management and implementation has been overlooked. As a result, there exists an intellectual lacuna in the knowledge about the CPA, its implementation and impact on Sudan and South Sudan which this study sought to fill. The study aims to give an examination of the Sudan CPA and its impact, 2005-2014.

### **1.3 Goals and Objectives of the study**

The overall goal of the study is to examine the Sudan CPA and its impact, 2005-2014.

The specific objectives are:

1. To examine the Sudan peace processes and the formulation of the Comprehensive Peace Agreement.
2. To assess the implementation of the Comprehensive Peace Agreement in Sudan/South Sudan.

3. To evaluate the impact of the Comprehensive Peace Agreement in Sudan and South Sudan.

#### **1.4 Research Hypotheses**

This study is based on the following hypotheses:

1. The formulation and implementation of the Comprehensive Peace Agreement was influenced by the interests of the belligerents.
2. The poor implementation of the Comprehensive Peace Agreement led to the failure of its mission.
3. The Comprehensive Peace Agreement did not address long term structural problems in Sudan/South Sudan.

#### **1.5 Justification**

Sudan, before January 2011 was the largest country in Africa. The country had been in political turmoil since independence in 1956, making it one of the poorest in Africa. There had been several failed attempts to end the Sudan conflict. However, in 2005 the IGAD succeeded in brokering a negotiated settlement by signing of the CPA between the GoS and SPLM/A. This study examines the Sudan CPA and its impact, 2005-2014. The Sudan CPA is chosen because it is the most current. The academic justification for carrying out this study is based on the gap in literature on the Sudan CPA. Although there exists large volumes of important literature, many researches and articles on the CPA and its impact on Sudan/South Sudan are not exhaustive.

This study is relevant today, particularly as the inter-state and intra-state conflict in Sudan and South Sudan continue to unfold. Doing research at this important stage in the countries' history is essential in an effort to reflect on emerging trends and developments, as this will enhance knowledge and add up to the literature on peace agreements, the dilemmas facing their implementation and the impact of their implementation/lack of implementation. The research hopes to make a contribution by providing additional and novel insight into the CPA implementation and impact on Sudan and South Sudan. The research findings will also have the potential to elicit more researches from other scholars on the same subject to establish the validity of the conclusions.

## **1.6 Scope and Limitation of the study**

The study is limited to the Sudan CPA in the period 2005-2014.

After along and protracted set of negotiations and mediation, the GoS and SPLM/A finally agreed and signed the CPA on January 9<sup>th</sup>, 2005. The CPA was the immediate culmination of negotiations that ended the hostility between the National Congress Party (hereafter NCP) and the SPLM/A. This brought an end to Africa's longest war, 1955-1972 and 1983-2005 that had engulfed Sudan since its independence in 1956. While this work is being written, 2014, it would have been over 9-years since the CPA was signed.

Various factors impeded the collection of data for this study. A field study to Sudan and South Sudan though intended was not possible due to time constraints and financial resources. The current conflagration in South Sudan made it difficult to access South Sudan. Access to the IGAD personalities who brokered the deal was difficult. Some informants were not well conversant with the CPA, particularly with regard to the Protocols. However, these limitations did not affect the quality of data and information as Sudanese and South Sudanese working outside Sudan/South Sudan provided crucial information. Majority of the informants were privy to the negotiations. Moreover, the study also focused on secondary materials from libraries.

## **1.7 Literature Review**

There are a lot of literature about Sudan and South Sudan that captures the shifting dynamism of events per time. This continuous shift is, therefore, played out in the prevailing ideas of the era during which many of the scholars here presented their thesis which also reflect on the change of events in Sudan and South Sudan during the CPA and in the post-CPA period. Although there exists substantial volumes of important literature, many researches and articles on the CPA and its impact on Sudan/South Sudan are not exhaustive.

In his M.A. thesis on "A return of Hostilities? CPA, Transformational Challenge and the Future of Sudan," Iyekolo, Wilfred analyses the CPA from its inception in 2005 to the eve of the referendum. The study focuses on the problem option: why in spite of the CPA and Southern Sudan referendum for independence, the cycle of conflicts may not have been broken in Sudan? The aim of the work was to assess, update and reflect the concern of the current post-referendum

era ahead of termination of the CPA on July 2011. The discussion begins with an introduction to the conflict in post-colonial Sudan, looking into the background to the Sudan CPA, tracing the long road from Naivasha, contending objectives and issues in the CPA implementation. Next to this, the thesis discusses Sudan, impotency of the CPA and contending transformational challenges. The author argues that the CPA carries an embodiment of problems, from its negotiation to implementation, and doubts its comprehensiveness and whether it will harbingers the much needed transformation considering the plethora of irregularities that coloured the process. The thesis ends by giving a reflection on the future of Sudan. This article is relevant to this study, particularly as it helps to identify what makes peace agreements fail/succeed. It thus identifies what appeared to be impediments to the transformation in Sudan. However, the study's scope is from the conduct of the referendum on the 9<sup>th</sup> January, 2011 till about the end of May 2011. The study is such that it fits within the framework of the last six-months of the six-year interim lifespan of the CPA.<sup>20</sup> The article, thus does not give an in depth analysis of the CPA after its termination, whether it was implemented or not and the impact of implementation/lack of implementation on Sudan/South Sudan, the details this study seek to reveal.

Abdalbasit, Saeed in his article "Challenges Facing Sudan after the Referendum Day 2011," analyses the situation in Sudan in the past two centuries, and the post-independent period, until the inception of the CPA. The paper identifies nine hotspots/flashpoints in the borderline belt that are sites of current or potential conflict. It uncovers specific factors, both historical and contemporary, that have contributed to these long running disputes. Separate sections of the paper focus on border issues between White Nile and Upper Nile state, border issues involving South Kordofan state and the particularly contentious issue of the Abyei area. The paper, however, only portends that both North-South Sudan will face serious challenges in the post-referendum period.<sup>21</sup>

According to the author, North Sudan will confront a deepening and widening fiscal crisis that may be aggravated by a political crisis and a constitutional crisis as the International Criminal

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<sup>20</sup> Wilfred, S. Iyekolo. (2011): "A return of Hostilities? Comprehensive Peace Agreement, Transformational Challenges and the Future of Sudan;" M.A. Thesis, Department of History and International Relations, Aalborg University, Denmark., p.11.

<sup>21</sup> Abdalbasit, Saeed. (2010): "Challenges facing Sudan after the referendum day 2011: Persistent and Emerging Conflict in the North-South Borderline State," Sudan report, Michelsen Institute., p.11.

Court pursues the implementation of the verdict against the head of state. Accordingly, South Sudan will face the enormous task of building the range of institutions needed by an independent state.<sup>22</sup> More importantly, the paper does only predict the challenges Sudan might face after the referendum, and mainly focuses on the persistent and emerging conflict in the North-South borderline states. Again, an evaluation of the CPA is only limited to the period before and/the end of the interim 6-year period. Nonetheless, the paper attempted to contribute to a redirection towards good neighbourliness for the two successor states and a constructive role for regional and international actors under the post-referendum period.

Haslie, Anita and Borchgrevink, Axel, in their article “International Engagement in Sudan after the CPA,” analyse the international engagement in Sudan since the CPA in relation to the principles for Good International Engagement in Fragile States and Situations, which the Organization for Economic Cooperation and Development/Development Assistance Committee is currently developing. The report concludes that donor conditions have been quite advanced in Sudan, with a number of innovative mechanisms tried out.<sup>23</sup> Furthermore, there has been a concerted effort towards contributing to the building of the South Sudan state. The report ends by asserting that in the case of Sudan, there have been instances of tension between the objectives of state building and donor coordination, on the one hand, and of acting fast in order to create rapid peace dividends, on the other. Finally, the particularity of the post-CPA Sudan, where two governments are to function within one state, poses special challenges for the international community, which has not always managed to deal with the situation in a way that serves to build the relations between the GoNU and GoSS.<sup>24</sup> However, the paper does not talk about the post-referendum period and does not examine whether the CPA set the stage for durable peace after the referendum, the objective this study set out to study.

Jooma, Bibi Mariam in her article “Sudan: Eighteen months after the CPA,” attempts to provide a brief overview of the current dynamics unfolding in the Sudan. The report focuses on the implementation of CPA, though as a consequence of the rapidly changing environment. The

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<sup>22</sup> Abdalbasit, Saeed., Op. cit., p.11.

<sup>23</sup> Anita, Haslie and Axel, Borchgrevink. (2007): “*International Engagement in Sudan after the CPA*,” Norwegian Institute of International Affairs., p.3.

<sup>24</sup> Ibid., p.7.

report pays attention only to those aspects of the process that are likely significant to challenge the implementation process.<sup>25</sup> The report was written more than a year after the signing of the CPA which was widely expected to signal the onset of peace in Sudan after decades of war between the SPLM and the Khartoum government. In the same article, Francis Deng' in his analysis of the "New Sudan within Southern Sudan," argues that "the vision of the New Sudan therefore promises to liberate all people, along with the South, from their marginalization and to create a country of genuine pluralism and equality with a greater influence for the previously marginalized African groups."<sup>26</sup> The question then is, has this vision been achieved? After the referendum, is all well in Sudan/South Sudan? At no point in this draft were these questions addressed nor does it look at the impact of CPA implementation/lack of implementation on Sudan/South Sudan, which formed the objective of this study. However, the paper gives an update on the key gains particularly from a security perspective since the signing of the agreement, and also highlights the key challenges to the implementation of the CPA, 18-months after its signing.

Nedelcheva, Mariya in her article "Southern Sudan on the road to independence and democracy," posits that the aftermath of Southern Sudan's successful January referendum has been characterized by enthusiasm and lack of violence. Yet the scale of the tasks ahead is still daunting. Political pluralism, the question of citizenship, oil revenues, sharing of debt, creating a Southern identity in an extremely ethnically diverse country are only some of the tremendous issues the South has to face on the home ground. The article also highlights the outstanding issue of the contested Abyei region, as well as the fact that much of the border with the North has not been demarcated yet on the foreign relations front, the issue of the revised Cotonou Agreement must be addressed along with integration into Pan-African and other international organizations.<sup>27</sup> The question that we have to confront is, did the CPA envisage these challenges? And if not, was it comprehensive? And to what extent have these issues been addressed especially after the termination of the CPA? These formed the thesis of this study.

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<sup>25</sup> Mariam, Bibi Jooma. (2006): "*Sudan, Eighteen months after the CPA*," Situation Report, Institute for Security Studies., p.2.

<sup>26</sup> Francis, Deng. "*Southern Sudan within a New Sudan-Concept paper for policy meeting*," Cape Town, 20-21 February 2006.

<sup>27</sup> Mariya, Nedelcheva, "*Southern Sudan on the road to independence and democracy*," June 2011, Volume 10, Issue 1, Springer Link., pp.73-78.

Shaka, Jack in the article “The Referendum in South Sudan: Is it peace or conflict ahead?” in an interview with Ambassador Daniel Rachuonyo Mboya, *Journal of Conflictology*, gives an overview of the referendum in Sudan. In the interview, the veteran diplomat expressed his opinion about the referendum in the South Sudan and the future of the volatile region. He asserts that “So far, the outcome of the referendum shows a sign of jubilation. And with the recent announcement of the results, I can only hope the positive results are accepted by both parties. If such an acceptance takes place, then there will be lasting peace in both the South and the North...”<sup>28</sup> It is true that both parties accepted the results of the referendum. The question then is, is there a lasting peace in both North-South Sudan? The interview ends by seeking the diplomat’s view on whether peace lies ahead for both North-South Sudan or is it conflict ahead? His response was unequivocal. He said “Up until now, I believe it is peace. I can only hope that the remaining issues like border between North and South, Abyei, South Kordofan and Blue Nile will be resolved by the same spirit that has prevailed up to now...”<sup>29</sup> Up until now, is this a reality? This study seeks to address these questions.

Belloni, Roberto in his article “The Birth of South Sudan and Challenges of State building,” examines some key state building challenges confronting South Sudan in the aftermath of the January 2011 referendum that separated this region from the republic of Sudan. Following the referendum, the two states-the Republic of Sudan and South Sudan-face the immediate challenge of negotiating the terms of relationship over a number of critical issues, including: the future of contested border town of Abyei, the problem of how to divide oil revenues, the definition and demarcation of the border between the two entities and the establishment of citizenship regime. Further, the paper argues that even if a settlement between the two over these issues were reached, South Sudan’s internal political, security and developmental challenges remain enormous. In conclusion, the paper briefly assesses the implications of the birth of South Sudan for other simmering conflicts and for the doctrine of self-determination.<sup>30</sup>

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<sup>28</sup> Jack, Shaka. (2011): “*The Referendum in South Sudan: Is it Peace or Conflict Ahead?* An Interview with Ambassador Daniel Rachuonyo Mboya” [online interview]. *Journal of Conflictology*. Vol. 2, Iss. 1. Campus for Peace, Universitat Oberta de Catalunya., pp.3-4.

<sup>29</sup> Ibid., p.5.

<sup>30</sup> Roberto, Belloni. (2011): “*The Birth of South Sudan and the Challenges of State building,*” *Ethnopolitics*; Formerly *Global Review of Ethnopolitics*, University of Trento, Italy, 10:3-4, 411-429., pp.2-3.

The article proved very resourceful to this study, particularly as it discusses some of the main state building challenges that South Sudan faces in the transition from a neglected and marginalized Sudanese region to a sovereign and independent state. It attempts to isolate and examine the key issues and internal challenges that will probably dominate the political landscape in South Sudan for the near future. The paper provides brief background information on the 2005 CPA, which ended the war between the North and the South, and its implementation. The CPA was signed on January 2005 and proved successful in terminating the 22-year conflict between the North and the South and provided Sudan with an opportunity to redress some Southern grievances. According to the author, the CPA's major achievement was to end a long and bloody war, but much of the agreement was never implemented, or implemented only notionally.<sup>31</sup> This article discussed the Protocol on power-sharing, oil and wealth sharing, Abyei and the North-South border. The aim of this research is to examine the CPA and its various Protocols, including the Machakos, Power-sharing, Wealth-Sharing, Abyei, Resolution of conflict in Southern Kordofan and Blue Nile State and Security Arrangement, whether they were implemented or not and the impact of their implementation/lack of implementation on Sudan/South Sudan.

Benedetta De Alessi, in her article "The CPA failure and the Conflict in Southern Kordofan and Blue Nile States," examines how conflict emerged in the Sudan's states of Southern Kordofan and Blue Nile between the GoS and the SPLM/A in the aftermath of the referendum for self-determination that led to the separation of South Sudan from Sudan. This work enriches our study because it makes the point that the conflict in the so-called Two Areas-the North/South border regions of Sudan that fought alongside the SPLM/A during the country's second civil war-is the direct result of the failure of the CPA to address Sudan's issue of sovereignty beyond the North/South divide, both in its design and implementation. The implementation of the Protocol of the two areas, on top of its structural weakness, was affected by the overall ill implementation of the CPA and the tense relations between Juba and Khartoum. Accordingly, the weakness of the overall project of a new united Sudan enshrined in the CPA became evident. Rather than a model for the development of the new democratic Sudan, the implementation of the Protocol of the two areas revealed the weakness of the New Sudan vision in the CPA among

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<sup>31</sup>Roberto, Belloni., *Op. cit.*, pp.3-17.



its signatories.<sup>32</sup> It concludes that as a result of the CPA, neither peace nor democracy was reached in Sudan. However, this literature does not in any case compare this fundamental factor with respect to the other Protocols. It was in the interest of this study to fill the gap by exploring whether the other CPA Protocols were implemented or not and the impact of their implementation/lack of implementation on Sudan/South Sudan.

A similar approach is taken by Kristian Skovsted in the article “When the referendum is not the answer; the case of Abyei.” Though South Sudanese celebrated independence in 2011, not everywhere did they celebrate the independence they for decades had been fighting for. The oil-rich border of Abyei did not conduct the referendum despite the fact that it in accordance with the CPA should have held a referendum on the same day as the rest of Southern Sudan to determine whether to follow what was to become South Sudan or continue to be part of Sudan. This referendum was seen as the key instrument to end two decades of war and a century of instability in Abyei and create long lasting peace. Instead, the final solution was postponed indefinitely due to disagreement over voter eligibility and border demarcation. Issues, which are always part of referendum preparations and, therefore, might sound solvable, have yet to be solved in Abyei.<sup>33</sup> However, this literature is not exhaustive of the weaknesses of the CPA because it is only based on a single Protocol. As such, it is not an adequate parameter to use in the evaluation of the CPA and its impact on Sudan/South Sudan. This study attempts to fill this gap.

John, Young in examining “The fate of Sudan,” points out that Sudan’s Peace Process is likely to fail and lead to persistent instability. Young argues that political expediency of liberal peace-making elevated elites at the expense of civil society. Rather than addressing the authoritarian roots of the conflict and the nature of the Sudanese state, the CPAs architects remained fixated on forging any deal, following a one-size-fits-all, liberal internationalist checklist. As a result, the peace process actively side-lined multiple actors and reified the very elite-based power structures responsible for decades of civil war and political instability in Sudan. What was

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<sup>32</sup> Benedetta, De Alessi. (2013): “*The CPA failure and conflict in Southern Kordofan and Blue Nile States,*” UNISCI Discussion Papers No.33., pp.6-7.

<sup>33</sup> Kristian, Skovsted. (2014): “*When referendum is not the answer; The case of Abyei,*” Internship Report, Roskilde University., p.3.

actually needed, Young argues, was a process that facilitated the total democratic transformation for all Sudan. This work has been explored with a view to acquiring more insight. The importance of this work lies in the fact that it argues that the birth of independent state of South Sudan and the threat of further dismemberment of Northern Sudan are due to failure of approaches and ideologies of the main Sudanese parties, as well as a deeply flawed US-backed peace process that excluded civil society and other rebel groups.

In his conclusions, Young argues that long before the secession of South Sudan, it was clear from the experience of Ethiopia, Eritrea, and Somalia that separation did not yield peace and stability, much less democracy, and instead produced a new set of conditions that led to interstate wars and a proliferation of internal conflicts. But, despite the overwhelming evidence of the failure of this approach, local actors in South and North Sudan worked with the US-led international community to facilitate the secession of South Sudan and thus prepare the context and stimulus for another set of conflicts.<sup>34</sup> This research will utilize this work to establish the reasons behind the inability of the CPA to lead to the end of protracted conflict in Sudan and South Sudan. In seeking to address this dilemma, the argument will be made assisted by relevant literature in the topic under study. However, the failures of the CPA to transform the two Sudans is not necessarily a consequence of a flawed peace process, but the way in which the agreement has been managed and implemented by the parties, as this study will unveil.

These scholarly works reflect the concerns of the period during which they were written as well as the pessimism over the outcome of any process at a particular point in time, which today either holds true or have had a new dynamism or dimension. This study, therefore, aims to assess, update and reflect on the Sudan's CPA, its implications and concerns especially during the post-referendum era in Sudan and South Sudan.

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<sup>34</sup> John, Young. (2012), Op. cit., p.352.

## **1.8 Theoretical framework**

The assumption underlying the study is that mediation is a process through which conflicts between parties in dispute can be effectively solved and, therefore, is also a process through which the restoration of lasting peace can be facilitated.

In classical discourses in history, political science, and international relations, there exists a clear distinction between war and peace. The two represent opposing ends of a spectrum around which societies exist. In between the two extremes, there exists conceptual tools for managing peace or conflicts. Peace agreements are such conceptual and practical tools that are designed to manage peace and conflict. From this view point, it can be argued that peace agreements are products of the interplay of peace and conflict. The causes, outcomes and effects of conflict were analysed within the framework of the following approaches:

### **1.8.1 The Structural Approach**

Structural approach assumes the existence of social, economic, political and legal structures that are potentially capable of inducing conflict. It examines relations between parties in terms of politics, economics and social status. Galtung, defines structural violence as existing in those conditions in which human beings are unable to realize their full potential. In conditions of structural violence, there is no actor who commits direct or personal violence, but the influences against the people's realization of their full potential and are the basis of structural or indirect violence.<sup>35</sup> For Galtung, the analysis of structural violence is that there is no actor who actually creates the violence, and neither does it hit directly and physically at the individual.<sup>36</sup>

The structural approach assumes that conflict will continue to exist as long as repressive socio-economic and political structures exist. Structural violence is, therefore, on a structure of relationships.<sup>37</sup> It is an interdisciplinary field of enquiry that investigates the causes and consequences of war and seeks ways through which conflict can be avoided or terminated once it begins. It is fundamentally concerned with several issues: First, it is concerned with structural violence where overt violence is absent, but in which structural factors have virtually the same

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<sup>35</sup> Johan, Galtung. (1991): "*Violence, Peace and Peace Research*," *Journal of Peace Research* Vol.3, (1969): 167-191; and Johan, Galtung, "*Cultural Violence*" *Journal of Peace Research* Vol.27., pp.191-205.

<sup>36</sup> *Ibid.*, p.201.

<sup>37</sup> Makumi, Mwangi. (2000): "*Conflict: Theory, Processes and Institutions of Management*," Nairobi, Watermark Printers, Kenya Ltd., pp.28-35.

compelling control over behaviour as the overt threat or use of force.<sup>38</sup> Second, structural violence or dominance is a potential cause of conflict and occurs when persons or a group of people are prevented by structural constraints from realizing their full capacity, including denial of education, health, employment and racial discrimination, apartheid, cultural relativism, and religious discriminations. Although the victims of structural conflict may not realize the conflict, structural researchers assert that indeed, structural conflict exists and hurts and that a just society is one without structural violence. Conflicts in the area under study were considered embedded on unjust and non-equitable legal, political, social and economic structures prior to the eruption of conflicts. Success or failure of peace agreement in the area under study will be measured in relation to how these structures sought to address basic human needs. Structural approach seeks to remove structures that breed structural violence and is thus revolutionary in nature. The structural approach concedes that conflict is inevitable where social, economic and political structures are designed to deny the wellbeing of some communities. Conflicts that are based on unjust social, economic and political structures are unlikely to be resolved.<sup>39</sup>

Accordingly, social, economic and political structures that existed in the Sudan were responsible for the generation of structural violence and conflict leading to the CPA. Social structures involved disparities in access to education, security sector, economic development and denial of participatory politics, justice and constitutional making. Where structural conflicts prevail, it is unlikely that peace will be sustained. Consequently, peace agreements that are not tailored to specifically address certain structural deficiencies are temporary settlements rather than resolutions.

### **1.8.2 The Systemic Theory**

Systemic theory is an approach that analyses conflict and the management of peace agreements from the premise that the durability of peace agreements is dependent on the systemic linkage with other actors at national, regional and international levels. It is, therefore, a product of the process of analysing internationalization of conflict.<sup>40</sup> The internationalization of conflict

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<sup>38</sup> Makumi, Mwangiri., Op. cit., pp.28-35.

<sup>39</sup> Ibid.

<sup>40</sup> On Systemic Perspective in Conflict, see, Mwangiri “*The Idea of Conflict Systems*,” in Mwangiri, *Conflict: Theory, Processes and Institutions of Management*, pp.71-85.

acknowledges that conflicts previously thought of as purely internal are now international through diffusion and multiplicity of external actors.<sup>41</sup> The starting point in systemic theory is that emphasis is given to the whole since this has an impact greater than the sum of its parts and must, therefore, be taken into consideration in any empirical theory of systemic behaviour.

The systemic theory assumes the existence of regional, sub-regional patterns of interaction.<sup>42</sup> Certain things become evident when conflicts in a region are surveyed through the conceptual glasses of a conflict systems approach. It treats the role of the state as an empirical question rather than being axiomatic.<sup>43</sup> This means that the states are not considered as the exclusive actors in the regional systems, implying that regional conflicts require a multilateral approach due to their complexity and interconnectedness. It becomes imperative that we look into conflicts as regional rather than purely intra-state phenomena. A systemic approach means eventually that at some level of abstraction, generalizations can be made about regional conflict systems. Systems in these respects may occur at various levels, for example IGAD, ECOWAS and SADC. The argument here is that regional political economic groupings share common history, ideology and values. The study analysed conflict in the context of the greater Horn of Africa conflict system centred on the Sudan.

Systemic theory serves several useful functions in conflict analysis. It takes into account the diversity of actors within a region, it blurs conventional borders and instead takes cognition of interstate frontiers, it brings actors who share a common historical perception concerns and a common cause for struggle.<sup>44</sup> It is a holistic tool of analysing regional conflicts and acknowledges that conflicts are indivisible from the whole.<sup>45</sup> Finally, systemic approach shifts the level of analysis from particularistic perception to a systemic perception, thus according some degree of generalization. In practical terms, perceiving conflicts within a systemic perspective has important implications for conflict management. Thus conflict management which does not take into account systemic realities, is unlikely to be effective. It also means that

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<sup>41</sup> On Systemic Perspective in Conflict, see Makumi, Mwangi, Op cit., p.74.

<sup>42</sup> Makumi, Mwangi, Op. cit., p.83.

<sup>43</sup> Ibid.

<sup>44</sup> Michalska, A. (1971): *Rights of People to Self-Determination in International Law*; in Twining, W. Ed., *Issues of Self-Determination*, Aberdeen: Aberdeen University Press., pp.71-90.

<sup>45</sup> Makumi, Mwangi, Op. cit., p.84.

conflict management efforts which do not engage other stakeholders within the conflict system are unlikely to succeed or endure. The CPA has been accused of being non-inclusive, i.e. it failed to take into account the systemic setting.

## **1.9 Methodology**

This research used both secondary and primary data sources but relied mostly on secondary data sources. It has explored and critically analysed and reviewed literature relating to the Sudan's CPA from its inception to the end of the peace process, and the post-CPA period and other relevant materials. Such works include books and journals articles, print and electronic media and other relevant papers. The key libraries used include the University of Nairobi's Jomo Kenyatta Memorial Library, the Nairobi Peace Initiative Library, and the Kenya National Library (Nairobi). It was on the basis of the content of such available documents and other literature that key variables were abstracted.

The study adopted qualitative research methodology. The primary sources utilized were mainly information gathered from the Sudan CPA, oral interviews of the people identified and the use of questionnaires. Interviews were done through face to face interactions. Where the respondents were unable to complete the questionnaire on the spot, the researcher left them for a period of one week for the respondents to fill at their convenience. The questionnaires were open ended and had guiding questions leaving the interviewee with adequate room to give detailed information regarding the research. This also allowed the interviewer a great deal of freedom to control the interview situation and to probe various areas and to raise specific queries during the course of the interview. Sampling of respondents was through purposive/deliberate and snowballing method. The purposive method was aimed at selecting people with desired characteristics relevant to the study who were thought will be most informative. The first respondents were identified in the secondary materials such as books. Snowballing meant that the initial respondents identified led the researcher to the other interviewees.

Oral interviews were held with 20 respondents, the target population being mainly Sudanese and South Sudanese citizens. The key respondents included the spokesperson of SPLM/A (rebel faction), the National Committee Chair, Political Mobilization wing of the SPLM/A, the

SPLM/A ambassador in Africa, Chairperson, South Sudanese Caucus, Nairobi chapter, Youth leader, SPLM/A Kenyan Chapter, Sudan radio presenter, Nairobi. Also Kenyan citizens who are working/have worked in Sudan/South Sudan were invaluable. Key amongst them was the former international election campaign expert for governor of Unity state, South Sudan. Some Sudanese and South Sudanese nationals also happened to have been in the same postgraduate class with the researcher and were interviewed.

The interviews were recorded by note taking and tape recording (with the consent of the respondent). The data collected was qualitatively analysed by listening to the tapes, transcribing interviews from tape to paper, and carefully reading the transcribed data. The data set was put in one location and systematically arranged to answer the research questions at hand. The responses to each topic and specific questions were looked at individually so as to pick out concepts and themes. This method provided ways of examining, comparing and interpreting themes on which conclusions were drawn. The results were corroborated by comparing findings from oral interviews and questionnaires. The interpretations and conclusions were also discussed with the supervisor. This provided useful challenges and insights. Results are shown in terms of explanations in a narrative form.

## CHAPTER TWO

### CIVIL WARS AND PEACE PROCESSES IN SUDAN BEFORE THE COMPREHENSIVE PEACE AGREEMENT

#### **2.0 Introduction**

Sudan (formerly known as “the Sudan” until 1975) was Africa’s vastest country- it was almost 22 times the size of Cuba, more than 10 times the area of the United Kingdom; was nearly as large as Argentine; and roughly one-third the size of the continental United States. The River Nile is the life-line of the country, because, except for the Southern region, the rest of the country is part of the Sahara desert. Cotton, the country’s number one foreign exchange earner and main source of income, is grown under irrigation using the River Nile. The South, an area of vast forests, swamps and virgin lands, is rich in natural resources that if widely exploited could transform the entire country into a rich state-especially through petroleum which has recently been discovered there.<sup>46</sup>

The Sudan entered the twenty first century mired in not one, but many civil wars. What had been seen in the 1980s as a war between North and South, Muslim against Christians, Arab against African, had, after nearly two decades of hostilities, broken the bounds of any North-South conflict. Fighting had spread into theatres outside the Southern Sudan and beyond the Sudan’s borders. Not only were Muslims fighting Muslims, but ‘Africans’ were fighting ‘Africans.’ A war once described as being fought over scarce resources was now being waged for the total control of abundant oil reserves. The fact that the overall civil war, which was composed of these interlocking struggles, continued for so long, far outlasting the international and regional political configurations which at one time seemed to direct and define it, is testimony to the intractability of the underlying causes of the conflict. There are now many numbers of declarations by various parties that a lasting peace will be achieved only through addressing the ‘root causes’ of the war.<sup>47</sup>

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<sup>46</sup> Wakano, K., Op. cit., p.270.

<sup>47</sup> Douglas, H. Johnson. (2003), Op. cit., p.xi.



During the closing days of Anglo-Egyptian rule (1898-1956), societal anxieties and tensions, coupled with administrative overreactions and ineptness, created a highly volatile situation in Southern Sudan.<sup>48</sup> Up until 1947 Britain, or at least the foreign office, had not been fully committed to administering the South as part of the Sudan, entertaining the untested notion that it might eventually be linked to the East African colonies. With Egyptian and Northern Sudanese nationalists' insistence on a united Sudan, however, this option (never vigorously pursued) was closed. A legislative council was established in the North as a preliminary step towards a national parliament. Southern participation in this assembly was secured at the Juba conference of 1947. The Juba conference, as will be discussed in section 2.3 of this chapter, highlighted just how unprepared the South was for any form of self-government. At no time in the discussions did the civil secretary, who convened and chaired the conference, allow the possibility of a separate administrative future for the South to be put forward as a practical alternative. It has since been claimed in the North that the Juba conference settled the question of the unity of the Sudan, but that question was merely deferred. As the civil secretary was to write many years later, 'No decisions could be made at the conference, since members had received no mandate from their peoples....the only decision resulting from the conference was taken by myself.'<sup>49</sup>

The policy of separate administration and separate development for the Northern and Southern Sudan which the government had followed for nearly twenty years meant that there were few Northerners in the new politically active class who had any practical experience of the South; nor were there many Southern Sudanese who shared the experiences or outlook of this class. It is not necessarily the case that Northerners and Southerners would have developed a common national understanding had the policy of administrative segregation never been imposed, but the gulf of misunderstanding which separated North and South was all the greater as a result of that segregation.<sup>50</sup>

The first parliamentary elections in 1954 resulted in an overwhelming victory of the Northern political parties. The elections handed complete control of the political scene to the Northern

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<sup>48</sup> Ali, T.M. and Matthews, R.O., *Civil Wars in Africa: Roots and Resolution* (Quebec: McGill-Queens Press), p.57.

<sup>49</sup> Robertson, J.W. (1974&1975): *Transition in Africa: From Direct to Independence*; London & Khartoum., p.107.

<sup>50</sup> Douglas, H. Johnson. (2003), Op. cit., pp. 25-26.

elite, which have dominated national government and Sudanese politics ever since.<sup>51</sup> There was thus widespread discontent in the South as a result of the outcome of the 1954 elections and the Sudanization process. The rapid increase of Northerners in the South as administrators, senior officers in the army and police, teachers in government schools and as merchants, increased Southern fears of Northern domination and colonization. This effectively sparked the civil war in Sudan which lasted until the year 2005 with the signing of the Comprehensive Peace Agreement. The conflict in Sudan occurred in two phases, often identified as first and second Sudanese civil wars. The first phase of the civil war occurred from 1955 to 1972, while the second phase, essentially a continuation of the first, occurred from 1983 to 2005.

This chapter presents an overview of the civil wars in Sudan and the various peace initiatives before the IGAD peace process that led to the signing of the CPA. Though there is yet no general consensus as to what the root causes are, the chapter will attempt abroad explanation of the origins of the Sudan's multiple and recurring civil wars and why these wars were so protracted.

## **2.1 The First Sudanese Civil War, 1956-1972**

The long complex and devastating Sudanese conflict has its beginnings predating independence in 1956. A former condominium of Britain and Egypt, Sudan was granted internal self-rule in 1953 and full independence in 1956. During the pre-independence constitutional talks, the South had expressed its desire for separate development from the Muslim North, but the British administrators simply ignored such wishes. Arabic had even been forced through as the language of education in the South. In 1956, a few months before independence, the Southern army staged a rebellion and massacred many Northerners living in the South. The government countered by unleashing the Northern army against the Southern civilians who perished in thousands. Most of the survivors escaped as refugees into the neighbouring countries. Thus the Sudanese civil war started.<sup>52</sup>

When the independence came in 1956, almost all the administrative jobs throughout the country fell in the hands of the educated and more advanced Muslim Northerners. Southerners had no

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<sup>51</sup> Ali, T.M et al., Op. cit., p.3.

<sup>52</sup> Wakano, K., Op. cit., p.271.

political party of their own. The first post-independence government, a de facto Northern government, was a two-party coalition led by Brig. Abdallah Khalil, as the Prime Minister. Two years later, the coalition got strained. The other party in the coalition started accusing the Prime Minister and his party of being too pro-Western, of economic mismanagement, and of not having backed Egypt sufficiently during the 1956 Suez Canal crisis. Squabbling and intrigue almost paralyzed and made a mockery of independence itself.<sup>53</sup> In order to avert the crisis, Prime Minister Khalil privately asked his old friend, Lt. Gen. Ibrahim Abboud, to take over power but only temporarily. Abboud agreed and staged a military coup on November 1958. He also dissolved parliament, banned political parties and imposed many of the restrictions usually associated with a state of emergency. He did more harm to the Southerners than any other Sudanese ruler ever. He planned to Arabize the South through sheer force. In 1962, he decreed that: 1) All Southerners should drop their Christian names and adopt Arab ones instead; 2) Arabic should be the official language throughout Sudan; 3) All Christian missionaries should leave the South; 4) the Koran (the holy book of Islam) should be taught to the Southerners as well.<sup>54</sup>

During this time, there had been only a desultory military campaign against the few 1955 mutineers who remained hiding in the bush, but the army began to burn villages in the late 1950s. Such repressive activities, especially those aimed at educated Southern Sudanese, increased opposition to the government. This was met by further repressive action, including arrest and torture of civilians. In 1960-2 a number of senior political figures (including Fr. Saturnino Lohure, Aggrey Jaden, Joseph Oduho and William Derg), as well as a far greater number of students, left for the bush and neighbouring countries, where they joined with the remaining mutineers to form both the exile political movement and the core of a guerrilla army. The exile movement eventually called itself the Sudan African Nationalist Union (hereafter SANU) in emulation of the East African nationalist parties. The guerrillas became known colloquially by the vernacular name of a type of poison, Anyanya, and resolved to fight for their

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<sup>53</sup> Wakano, K., *Op. cit.*, p.271.

<sup>54</sup> *Ibid.*, p.272.

independence and dignity. It is from this time, rather than the 1955 mutiny, that one can date the true beginning of the Sudan's first civil war.<sup>55</sup>

The Sudanese conflict escalated in 1963 with the formation of Anyanya, which proclaimed an autonomous state in the South and embarked on a guerrilla war against the government.<sup>56</sup> Immediately, it launched a series of attacks by several hundred men on bridges, stations and army posts in Equatoria, Upper Nile and at the beginning of 1964, fighting also spread to Barh al-Ghazal province. The Anyanya acted also against those Southerners suspected of collaborating with the government. The government reacted with harsher counter measures. Some Southerners were hanged, others put in prison.<sup>57</sup> Anyanya fought a destructive and protracted seventeen year war. During the seventeen year war, 500,000 people perished, most of them non-combatants, and hundreds of thousands were displaced from their homes.<sup>58</sup> Fearful of government reprisal, they fled Sudan and became refugees in the neighbouring countries- Uganda, Kenya, Zaire, Ethiopia and Central African Republic.<sup>59</sup>

The restrictions imposed by Ibrahim Abboud, compounded by his inhumane treatment of Southerners, disillusioned the people against the military government. On October 1964, rebellion ensued and Abboud resigned. Only in 1965, when the war against the Anyanya became too expressive and with the unresolved economic problems, was an attempt made by the government to find a political solution and a Commission of Enquiry established to make recommendations, as will be discussed in section 2.3.1 of this chapter. During the talks, the Southerners themselves stalemated the conference. A group of them wanted complete independence whereas the other groups favoured a loose federation. All the same, relative peace returned to the South.<sup>60</sup> Fresh elections were held in mid-1965 and the anti-South Muhammad

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<sup>55</sup> Douglas, H. Johnson. (2003), Op. cit., pp.30-31.

<sup>56</sup> Toyin, F. and Adebayor, O.O., Op. cit., p.1.

<sup>57</sup> Winifred, C. E, et al. (1977): *Case Studies on Human Rights and Fundamental Freedoms: A World Survey*; Pittsburgh: Martinus Nijhoff Publishers., p.8.

<sup>58</sup> Andrew, R.M. (2011): *The Black well Companion to Religion and Violence*, New York; John Wiley and Sons., p.6.

<sup>59</sup> Wakano, K., Op. cit., p. 272.

<sup>60</sup> Ibid., 272-274.

Mahgoub (Prime Minister) formed a two party coalition. Barely a month after assuming power, the army dictatorship was overthrown and a civilian government was installed.<sup>61</sup>

After the 1967 Arab-Israeli war, Sudan severed formal diplomatic relations with the United States and Britain, and forged close relations with the Soviet Union and other Communist countries. Other elections were held in 1968 and Prime Minister Muhammad Mahgoub, having returned to power in 1966, headed a new two-party coalition. Soon thereafter, inter-coalition squabbling emerged and threatened the rule of Mahgoub. Economic problems and the perpetual civil war in the South compounded the new government's troubles. On May 1969, the then officer-in command of Khartoum garrison, Col. Jaafar al-Nimeiri with the help of communist soldiers and civilians, staged a coup and seized power. On their part, the Anyanya escalated the war and even set up their own Southern government headed by Col. Joseph Lagu.<sup>62</sup>

Meanwhile, Nimeiri's government was itself an unstable coalition of radical factions. It immediately demonstrated a different approach to the war in the South by announcing that the conflict would be solved by political, rather than military means, and by issuing a declaration on June 1969 outlining its plans for regional self-government. There was a confused response by Southern exiles to this declaration. There was also a jockeying for position within the Revolutionary Council. The result was that through 1970 and much of 1971 there was an intensification of fighting in the Southern Sudan.<sup>63</sup> More importantly, the emergence of Israel as a military supplier and the ability of the military wing of the movement to consolidate power under Joseph Lagu, allowed for the projection of a coordinated military campaign in the field. This enhanced military capability of the Anyanya movement partly contributed to the conditions leading to the peace agreement in 1972.<sup>64</sup>

The Addis Ababa Agreement signed on March 1972 between Nimeiri's government and the leaders of the South, as will be discussed in section 2.3.3 of this chapter, not only brought peace to the Sudan, but as a unique resolution to civil war never before achieved in post-colonial

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<sup>61</sup> Winifred, C.E, et al., Op. cit., p.9.

<sup>62</sup> Wakano, K., Op. cit., pp.274-276.

<sup>63</sup> Douglas, H. Johnson. (2003), Op. cit., p.36.

<sup>64</sup> Paul, C, and Nicholas, S. (2001): *Understanding Civil War: Evidence and Analysis*; Washington DC: World Bank Publications., p.1.

Africa, brought great international acclaim to the nation and its leaders. However, though the Agreement brought fighting to a halt, it did not lead to peace building as the war again ignited eleven years later.<sup>65</sup>

## **2.2 The Second Sudanese Civil War, 1983-2005**

In 1983, President Nimeiri introduced Sharia (Islamic Law) in the entire country- including the largely non-Muslim South. Among other things, Sharia calls for amputation of hands of convicted thieves, stoning to death for adultery, and flogging (in public) of people convicted of drinking or even handling alcoholic drinks. Sharia, compounded by other grievances, pushed the South into a civil war. The Southerners under the newly formed Sudan People's Liberation Army (hereafter SPLA), headed by Col. John Garang, rebelled against the central government.<sup>66</sup>

A second round of war ensued, with all its attendant violence and destruction. The injection of religion into a long list of government policies abhorred by the majority of Southern population intensified feelings of alienation and estrangement and fanned the flames of the civil war. The people of the South also opposed the canal-digging-in the South-started by the Nimeiri regime in 1983. The canal would divert the River Nile by bypassing the Jonglei swamps and thus save about 5 million cubic metres of water. The Southerners argued that this project to scoop the world's longest navigable canal would deprive their tribes of water and also upset the region's ecological balance. Southerners have always viewed the Arab-speaking arbiters of power and wealth in the North as neglecting them. In over a decade of North-South peace, no major economic projects were accomplished in the South. And although petroleum had recently been struck in the South, the Southerners were doubtful of getting a fair share of the resulting revenues.<sup>67</sup> Sudan was quickly polarized once more, with Nimeiri committed to the creation of a theocratic Islamic state while the SPLA committed itself to establishing a democratic secular state. By the end of 1984, the SPLA guerrillas had halted the digging of the canal as well as petroleum exploitation by launching sporadic attacks on the projects' workers.<sup>68</sup> Much of the renewed fighting occurred in the South where separatist groups, principally the Sudan People's

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<sup>65</sup> Ali, T.M., Op. cit., p.3.

<sup>66</sup> Andrew, R.M., Op. cit., p.7.

<sup>67</sup> Wakano, K., Op. cit., pp.281-282.

<sup>68</sup> Ibid., p.282.

Liberation Movement (hereafter SPLM) with its military wing, the SPLA, led the Southern war effort.<sup>69</sup> Members of an underground force were intensely crisscrossing the South with information on how to handle the next phase of civil strife in the country.<sup>70</sup>

Before the formal establishment of SPLM-SPLA, rebel groups were mushrooming around the South under the label of Anyanya II, signifying a renewal of the first rebellion under what was retrospectively designated Anyanya I. The main difference between the Anyanya groups, on the one hand, and the SPLM-SPLA, on the other was that the Anyanya were driven by separatist objective, while the SPLM-SPLA declared national unity as the overall goal. They sought to liberate the whole country from discrimination and to foster the creation of a new Sudan in which everyone would enjoy full equality of status and opportunities. The differences in objectives and the struggle for leadership soon brought the SPLM-SPLA at logger heads with some of the leaders of Anyanya II. Ironically, the originally separatist Anyanya II soon turned into an ally of the government and became one of the so-called friendly forces in the South. Nimeiri attempted to pre-empt the rebellion by splitting the South into three regions, each with its own capital. However, SPLM-SPLA soon proved to be a formidable force against the regime.<sup>71</sup> On April 6, 1985, while in the United States, Nimeiri was overthrown and the leadership of Africa's vastest country was then entrusted to Gen. Swar el-Dahab, the Commander-in-Chief of the armed forces.

The war continued even after Nimeiri was ousted in 1985 and a democratic government elected in 1986.<sup>72</sup> After a short transition period a three-year long democratic phase from, 1986-1989, with Sadiq al-Mahdi as President, followed. Within the democratic framework, he nevertheless transformed the so called secular state of Nimeiri into an Islamic State. He gave room for democratic elements but only for Northerners, while the Southerners remained excluded. Thus the war accelerated even more.<sup>73</sup> Al-Mahdi's government appears to have thought that it could obtain internal agreement by manipulating divisions within the South. Though al-Mahdi said that

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<sup>69</sup> Toyin, F, and Adebayor, O.O., Op. cit., p.69.

<sup>70</sup> Maut, A.M.G. (2011): *Integration and Fragmentation of the Sudan: An African Renaissance*; Bloomington, Author House., p.22.

<sup>71</sup> Francis, Deng M. (1995): *War of visions: Conflicts of Identities in the Sudan*; Washington DC, Brookings Institution Press., p.33.

<sup>72</sup> Ann, M.L., Op. cit., p.11.

<sup>73</sup> Katherine, M. (2000): *Between Relief and Development cooperation in Sudan*; Stamford, Cengage Learning., p.3.

the question of whether the South should be one region or three is entirely upon Southerners, the Umma Party itself helped to finance those parties which favoured three regions and al-Mahdi made proposals which would have effectively limited the authority of any unitary regional government in Equatoria. In the meantime, the government armed the Misseriya Arabs, the Murle and Mandali, as well as the Anyanya II to fight the SPLA.<sup>74</sup> Al-Mahdi did not have much support in the army and was overthrown in 1989 coup by Muslim Brothers. The Muslims Brothers remained virtually unchallenged in their pursuit of their ideological mission after the fall of the communists following the abortive 1971 coup. With petrodollars financing and reinforcing the Sudan's Arabism and Islam, the Muslim Brothers clearly had the upper hand among all the political forces in the country at that phase of Nimeiri's rule.<sup>75</sup>

The SPLA refused to recognize the new government. In 1989, Omar al-Bashir, a well-known radical Islamist, overthrew the government through a bloodless coup, with the help of Muslim Brothers, like Hassan al-Turabi. They favoured continued Islamization and used religious propaganda to recruit military personnel.<sup>76</sup> For example, Bashir started the idea that the Sudanese woman should take care of herself, her children, her home, her reputation and her husband. The family code not only enshrined Sharia provisions for inheritance, divorce and child custody but further limited women's rights. For instance, sharia requires four male witnesses to prove adultery, whereas Sudanese courts could convict a woman based on physical evidence, such as pregnancy, without eye witness and without the woman testifying in her own defence. This paternalistic morality was upheld by the committee charged with codifying Islamic law, which concluded that women must not go outside after dark without a male companion and men must not work in women's beauty salons. As a result, some towns banned women from selling in street markets after dark. One year after Col. Bashir had staged his coup d'etat on June 30 1989, he suspended the constitution, dissolved parliament and political parties, banned newspapers, trade unions and strikes and renounced the DUP-SPLM agreement. There were half a million Southern Sudanese refugees beyond the borders of the Sudan and another four million Southern Sudanese displaced persons. Two hundred thousands were in the transition zone where the

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<sup>74</sup> Peter, W. (1991): *Sudan after Nimeiri*; Oxford, Rutledge., p.10.

<sup>75</sup> Francis, Deng M. (1995), Op. cit., p.11.

<sup>76</sup> Andrew, R.M., Op. cit., p.115.



revival of slavery had been most conspicuous. Over a million displaced Southern Sudanese had fled to greater Khartoum as very unwelcome guests.

### **2.3 Peace Processes in Sudan before the Comprehensive Peace Agreement**

There had been many failed attempts to resolve conflict in Sudan before the successful IGAD mediation of 1993. The Juba Conference, held on June 1947 in Juba, was attended by British and Sudanese delegates. The Great Britain organised the conference in order to combine Northern and Southern Sudan into one political entity. Up until this time, the two sectors were essentially treated by the British as two separate colonies; this being due to ethnic, religious and cultural differences. This conference did agree to two matters: that the Northern and Southern Sudan constitute one state, and that a Legislative Assembly represent the entire colony. However, Southern representatives had several reservations about the resolutions, largely because they were in an inferior position in regards to their region's lack of educational and political experience. Their apprehension was realised when 800 administrative posts were vacated by the British in preparation for Sudanese self-rule, because only four of the government posts went to Southerners. In discussions to determine the future of modern state of Sudan, the Southern provinces were largely excluded from the political process. This disparity led to the first and second Sudanese civil wars.

In the initial stages of the war, the Khartoum government under Major Abboud, who came to power in 1958, preferred a military solution to the conflict. The government believed that its control of State machinery gave it preponderant power over the rebellious Southerners and that this would result in military defeat of the rebels. However, force only intensified Southerners resistance and motivated them to greater efforts. Khartoum did not address the needs of the Southerners such as recognition, cultural identity, and development. The failure by the government to enact measures to guarantee such needs, which to the Southerners were non-negotiable, intensified the conflict. By 1963, neither side in the conflict had won militarily. Milton Obote, the then President of Uganda, offered to mediate and visited Sudan in 1963. In successive years, he took part in several reconciliation attempts.<sup>77</sup> As mentioned earlier, Obote's

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<sup>77</sup> Assefa, H. (1978): *Mediation of Civil Wars: Approaches and Strategies- The Sudan Conflict*; London, Westview Press., p.88.

motivation to intercede was due to the large number of Southern Sudanese refugees in Uganda, some of whom were using Uganda as a launching pad to stage raids into Sudan. However, nothing came from this initiative because the Khartoum government continued to pursue a military option. On October 1964, coupled with a non-performing economy, the conflict stalemated, which forced Abboud out of power in a bloodless coup. Another Mediation attempt was made by Kwame Nkrumah of Ghana. Nkrumah's offer may have been motivated by both altruism as well as his perceived Pan-Africanism and consequent desire to provide leadership in solving the continent's problems. The offer was, however, turned down by President Maghoub (Abboud's successor) on the grounds that the Southern problem was an internal Sudanese affair.<sup>78</sup>

### **2.3.1 The 1965 Khartoum Roundtable Conference**

Up on overthrowing Abboud, the Maghoub government embarked on a Sudanese solution to the crisis. On November 10, 1964, the government announced its desire for peace and negotiation, and declared a general amnesty. On March 1965, the Sudanese Prime Minister el-Khatim el-Khalifa convened the Khartoum Round Table Peace Conference to find a negotiated settlement to the conflict. This conference between Khartoum and the South- which was represented by the SANU, had observers from Ghana, Uganda, Tanzania, Algeria, and Egypt. During this conference, the delegates from the Northern parties rejected any form of self-determination, federalism or regional autonomy for the South, thus no agreement was reached.<sup>79</sup> The military coup of 1969 changed the Sudanese regime in the North, bringing a new leader, Jafaar Nimeiri to power as the head of a divided faction.<sup>80</sup> Meanwhile, the Southern movements found support from Ethiopia because the Sudanese government was supporting the Eritrean secessionists. On the other hand, Ugandan leader, Idi Amin opposed the Sudanese government as a client of Israel who recruited many Southern Sudanese into Ugandan army. The Southern movements underwent a series of internal coups that brought the military thinkers to power in a new organization called the Southern Sudan Liberation Movement (hereafter SSLM) and had some military successes thanks to their new weapons, external support and organization.

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<sup>78</sup> O' Balance, E. (1977): *Secret War in Sudan: 1955-1972*; London, Faber and Faber., p.85.

<sup>79</sup> Douglas, H. Johnson. (2003), Op. cit., pp.33-34.

<sup>80</sup> Ibid., p.40.

### **2.3.2 The Movement for Colonial Freedom (MCF)**

The Movement for Colonial Freedom (hereafter MCF), a London based organization affiliated to the Parliamentary Labour Party, also attempted to mediate in the conflict in the early 1970's. MCF had been established in the 1930s to raise British consciousness about the colonial territories and to provide a platform for indigenous leaders from these colonies to present their case. Beginning January 1970, the MCF attempted to use its offices to bring about some kind of rapprochement between exiled Southerners and the Sudanese government. MCF arranged for various delegations comprising of British parliamentarians and trade unionists to visit the Sudan with the aim of gathering facts and sensitizing British public opinion about the situation in Sudan.<sup>81</sup> However, the MCF's conclusion after the visit was that the rebellion 'was being fomented and encouraged by external reactionary forces which are anxious to prevent unity and progress towards a socialist Sudan.' The Southern leaders concluded from the MCF statement that it was committed to supporting Nimeiri's government, at that time a socialist. They ended MCF's involvement in the peace process.

### **2.3.3 The Addis Ababa Accord**

The coming into power of Nimeiri in 1969 saw renewed attempts to end the conflict. Negotiations with the SSLM followed, culminating into the signing of the Addis Ababa Agreement on February 1972, which was mediated by the Emperor Haile Selassie of Ethiopia, World Council of Churches and All African Conference of Churches.<sup>82</sup> This Agreement not only brought peace to the Sudan, but as a unique resolution to the civil war never before achieved in post-colonial Africa, brought great internal acclaim to the nation and its leaders. The Agreement was the first major attempt to bring peace and understanding to the Sudan. It marked the beginning of the quest of the South (dominated by the SSLM) to unite and grasp its freedom as a people. The South articulated its desire for sovereignty and called for peace that included the recognition of the South as a legitimate governing body. Besides peace, the greatest result of the Accord was the establishment of Southern Sudan as an autonomous region, with its own Parliament and High Executive Council.<sup>83</sup> However, this autonomy was limited in that the

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<sup>81</sup> Assefa, Op. cit., p.90.

<sup>82</sup> Madut, A.A., Op. cit., p.15.

<sup>83</sup> Ystein, H. Rolandsen. (2005): "*Guerilla Government: Political Changes in the Southern Sudan during the 1990s*," Copenhagen, Nordiska Afrikainstitutet., p.25.

political parties of the South were given the authority to govern the Southern provinces through statehood, leaving national rule to remain in the Northern governing body.

The main provisions of the Agreement dealt with the nature of the autonomy that was to be enjoyed by the South following a ceasefire and a brief interim period of rule by an Executive Council for the South, initially appointed by President Nimeiri. The three Southern Provinces were to be regarded as a distinct region in the Sudan, with a Regional Assembly to be elected by universal adult suffrage within eighteen months of ratification of the Agreement. The Assembly was to recommend appointments to a Regional Council and choose its own Regional President as the head of that council, although formal appointment of both was to remain in the hands of the President of the Sudan. The Regional Council was to control all aspects of Southern policy except defence, finance and currency, foreign affairs, and overall social and economic planning, the latter remaining under the control of the central government in Khartoum, in which the South was also represented. The Regional Assembly could also ask the President to defer the entry into force of any central government legislation applying to the South. The President was also responsible for good relations between the central government ministries and members of the Southern council.

It also stated that, while Arabic was to be the official language of the Sudan, North and South, English was to be the common language of the South and was to be taught in schools. The Accord was designed to reintegrate the South, Southerners into Sudan's political, economic and social mainstream. The last of the major provisions of the Agreement dealt with arrangements for the Anyanya. They were to be incorporated in the Sudanese army's Southern command. This force would for a transitional term, be under the command of a commission of Northerners and Southerners, until the South had set up its own machinery for maintaining law and order, which was to consist of an armed police force and between 2,000 and 3,000 frontier guards.<sup>84</sup>

Although the terms of the Agreement were implemented in the short term, the Agreement's spirit was not, dooming its long term prospects. It was a series of compromises intended to give

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<sup>84</sup> Christopher, R. Mitchell. (1989): "*Conflict Resolution and Civil War: Reflections on the Sudanese Settlement of 1972*," Centre for Conflict Analysis and Resolution, Working Paper 3.

sufficient regional powers to appease the South, while maintaining its ties to a unified state.<sup>85</sup> Two areas were, however, left ambiguous: the right of the national President in Khartoum to appoint the President of the South's High Executive Council; and sharing of economic resources. These deficiencies would be a challenge to an integrated society, eventually leading to the abrogation of the Agreement and instigating the prevailed insurgency.<sup>86</sup>

After the signing of the Accord, a ceasefire followed and the Southern guerrillas were integrated in the national army over the next five years. However, the false perception of self-governance was realised when a large external debt and gross mismanagement of the economy caused the nation's infrastructure to deteriorate. The North used the national economic crisis as a reason to renege on its obligations to develop Southern infrastructure and to include the South in the national government.<sup>87</sup> In addition to worsening economic conditions, border security issues and disputes over resources ensued. As the implementation of the Agreement stalled and disillusionment with autonomy set in, Southern distrust of and resentment towards the North increased and fuelled the pro-war separatist factions in the South.

The Agreement failed to establish national governmental provisions that would bring the country together; instead, it gave the South a conditional autonomy based on a false-sense of self-governance underscored by Northern control. Animosity towards the government of Sudan increased as the financial profits gained from oil failed to materialise in the South. As mistrust grew in the South and economic conditions deteriorated, the Southern government was confronted with various issues including: conflict with the central government over the Southern region's border's, the role of the Southern regional government in developing the region's resources and more particularly the benefit that were to accrue to it through the exploitation of its oil fields, the growing confrontation in regional politics between the 'Equatorians' and the 'Nilotics' (particularly the Dinka), and the dissatisfaction within the region over the fate of the

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<sup>85</sup> Peter, Woodward. (1990): *Sudan 1898-1989: The Unstable State*; Boulder, CO. Lynne Rienner., p.142.

<sup>86</sup> J. Millard, Burr and Robert O. Collins. (1995): *Requiem for the Sudan: War, Drought and Disaster Relief on the Nile*; Westview, Boulder, CO., pp.7-9.

<sup>87</sup> Douglas, H. Johnson. (2003), Op. cit., p.50.

Anyanya guerrillas absorbed into the national army.<sup>88</sup> These factors, along with the North's continued imposition of Islamic laws, led to the renewed fighting and the second civil war.

In conclusion, the main shortcoming of the Addis Ababa Accord was the asymmetrical relationship between the North and South which would have facilitated gradual assimilation for the South by the North rather than equitable integration that would make diversity a source of enrichment. Johnson argues that there were structural flaws in the Addis Ababa Agreement which meant that it could not serve as a framework for lasting peace.<sup>89</sup> Thus though the Agreement brought fighting to a halt, it did not lead to peace building as the war again ignited eleven years later. This is a clear illustration of the structural theory of violence.

Since its formation, the SPLM/A had adopted a principled position to seek a perfect resolution of conflict through dialogue and peace talks with the government of the day in Khartoum, leading to many initiatives and peace talks to find a peaceful solution to the Sudanese conflict. These attempts started from 1985, two years after the formation of the SPLM/A, when the movement called for an all-party National Constitutional Conference aimed at reaching a comprehensive peace agreement. It did not bear fruit as Nimeiri was overthrown on April 1985.

#### **2.3.4 The Koka-Dam Conference**

The next internal effort at peace-building was the Koka-Dam Conference, convened by the SPLM/A and all the Sudanese political parties in Ethiopia on March 1986. This conference was attended by over 50 delegates from all the Sudanese political forces except the National Islamic Front (hereafter NIF) and the Democratic Unionist Party (hereafter DUP). The conference resolved on major issues of the Sudan including the necessity for secularity of the state and a democratic Sudan. This led to the Koka-Dam Declaration of 1986. This peace process was short-circuited by the 1986 elections which brought into power a coalition of the Umma party with 101 seats and DUP with 68 seats while the NIF with 51 seats was in the opposition. The remaining 100 seats in the 320 seat parliament were either not contested because of insecurity in the South or distributed among several small parties. Prime Minister Sadiq al-Mahdi declined to implement

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<sup>88</sup> Ystein, H. Rolandsen., Op. cit., p.43.

<sup>89</sup> Douglas, H. Johnson. (2003), Op. cit., p.56.

the Koka-Dam Agreement. He argued that the persons who signed the Agreement on behalf of his party were not authorised to do so, and secondly that the DUP, a junior partner to the government was not a signatory to the agreement.

### **2.3.5 The Sudan Peace Agreement**

The SPLM/A later brought DUP on board leading to the historic 1988 DUP/SPLM/A Sudan Peace Agreement, which modified the Koka-Dam Declaration on the September Sharia laws of Nimeiri by agreeing to freeze these laws rather than abrogating them. However, Umma Party opposed the agreement and voted it down forcing the DUP to resign. This led to the collapse of Sadiq 1 government.

Following the resignation of DUP, the Umma party formed a coalition government with the NIF. The DUP and other Southern groups became the opposition. The military situation in the South, however, deteriorated. The SPLM/A went on a major offensive capturing Torit, Liria, Magwe, Parajok, Nimule, Bor and Waat Akobo in the first four months of 1989. This forced the army to join the public in pressurising the Sadiq 11 government to accept the DUP/SPLM/A Peace Agreement as a basis for peaceful settlement. The Prime Minister yielded to popular pressure and accepted the DUP/SPLM/A peace initiative on April 1989. Consequently, the NIF resigned leading to the collapse of Sadiq 11 government. Ahmed Hussein of DUP became the deputy Prime Minister and head of a Ministerial government delegation that travelled to Addis Ababa on May 1989 to work out details of the National Constitutional Conference with the SPLM/A. This Conference would end the war and usher the Sudan into an era of peace and development. However, the NIF staged a coup on June 30<sup>th</sup> 1989, to prevent peace under the terms of the Koka-Dam Agreement and the DUP/SPLM/A Sudan Peace Agreement.

Consistent with its principle of dialogue with the government of the day, the SPLM/A continued dialogue with NIF to achieve peace. The first discussions were bilateral, held on August 1989, and only two months after the NIF seized power. Subsequent peace talks between SPLM/A and the NIF government include the Jimmy Carter Nairobi talks, December 1989.

### **2.3.6 The Jimmy Carter Peace Initiative**

The June 30, 1989 coup brought into government the hard line NIF of Hassan Turabi. Despite the presence of this radical outfit in government, international pressure due to concerns about suffering civilians led to a ceasefire to enable humanitarian intervention. There was no written agreement between the belligerents with the UN when the international organization launched Operation Lifeline Sudan (hereafter OLS) to assist civilian victims of the conflict. However, there was an informal agreement that both protagonists maintain a ceasefire to allow relief food to reach civilians. The ceasefire that had contributed to the operations of OLS, however, collapsed on October 1989 as renewed hostilities broke out. This new outbreak compelled Jimmy Carter to initiate the Nairobi peace talks on December 1989.<sup>90</sup>

The Carter peace initiative was based on the linkage theory where by Khartoum provided support to Eritrea and Ethiopian rebels while Ethiopia provided support to Sudanese rebels. The theory stated that the attainment of peace in Ethiopia and Sudan were linked and there could be no peace in one without achieving it in the other. The talks were occasioned by Bashir's closing down of OLS on November 1989. Even though the talks failed, and donor aid to Sudan was suspended, the talks were the first in a series of mediation efforts that characterised the Sudanese conflict in the post-Cold war era.

### **2.3.7 The Abuja 1 Conference**

Out of fear that the SPLM/A was on the verge of collapse (partly due to wrangling between the factions of Garang and Riek Machar) and because of the importance of the issues of race, religion, and self-determination that were at the core of the Sudan dispute, the GoS and SPLM/A later met in Abuja, Nigeria on May-June 1992 under the mediation of the then Nigerian President and OAU chairman Ibrahim Babangida, marking the Abuja 1 Conference.<sup>91</sup> During this conference, the parties agreed that the conflict in Sudan could only be resolved through peaceful negotiation. Sudan being a multi-ethnic, multilingual, multi-cultural and multi-religious, the parties recognised the need to work towards an institutional/political arrangement to cope with and encourage such diversities. The parties also agreed to work towards an interim arrangement

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<sup>90</sup> Akol, L. (2001): *SPLM/SPLA: Inside an African Revolution; Khartoum*, Khartoum University Press., pp.132-137.

<sup>91</sup> Steven, Wondu and Ann, Lesch, Mosely. (2000): "Battle for Peace in Sudan: An Analysis of the Abuja Conferences," 1992-1993., pp.1-21.



aimed at allaying the fears of the component parts of Sudan, building confidence and ensuring devolution of powers to enable the component parts to develop in an atmosphere of relative peace and security. The parties, however, agreed to consult their principals with a view to determining the structures and character of the interim arrangement as well as ascertain the wishes of the people concerned thereafter. The parties recognised that the war had caused displacement of families and the destruction of the infrastructure in Sudan. The GoS and the interim administration was to use the interim period, with the assistance of the international community, to embark on a deliberate process of reconstruction of war affected areas, and the rehabilitation and resettlement of refugees displaced by war and famine.

This Conference, like the previous initiatives, also had various challenges. The talks were marred by divisions within the opposition ranks. At a press conference in Kampala, Uganda John Garang who was represented in the conference by William Nyuon, claimed that Nyuon had exceeded his authority during the Abuja 1 talks. Garang thus contradicted the agreed resolutions and insisted on a non-federal model of two nations with separate constitutional arrangements and political institutions, with separate sovereignty in the fields of defence and foreign affairs.<sup>92</sup> Khartoum also rejected secularism and would not countenance the proposed referendum. The process stalled for several months leading to the Abuja 11 Peace Conference.<sup>93</sup>

### **2.3.8 The Abuja 11 Conference**

The Abuja 11 Sudanese Peace Conference, a continuation of the Abuja 1 talks, took place on April-May 1993, and was preceded by preliminary discussions between GoS and the Garang faction of the SPLM/A. A wide number of constitutional, political and social issues were discussed. The talks focussed on various themes including power sharing between central authority and federated states, the powers of a central authority, the use of referendum as a means of judging the wishes of people in Southern Sudan. It was also agreed that any future dispensation will involve a distinct separation of powers within Sudan. A number of interim measures were discussed, including security and military considerations, the resettlement and rehabilitation of those affected by the civil war and the status of the South during the future

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<sup>92</sup> John, Ryle. (2004): “*Disaster in Darfur*,” New York Review of Books, Vol. 51. No.13., pp.11-13.

<sup>93</sup> African Security Analysis Programme, “*The Sudan-IGAD Peace Process signposts for the way forward*,” *Occasional Paper 86*, March 2004.

interim period. A common ground was covered and the final communique drafted.<sup>94</sup> However, Garang arrived before the end of talks and demanded the redrafting of what had previously been agreed upon to include that any residual powers not specifically vested with central government would devolve to states, a reversal of accepted federal modes whereby those powers not vested with the states are reserved to the federal government.<sup>95</sup> This demand effectively stalled the Abuja 11 peace talks. The Nigerian mediators issued a press statement adjourning the negotiations for one month. However, they were never resumed.

Other peace initiatives include the Friends of IGADD which includes Six European countries, the USA and Canada. There was also the Barcelona 1 and 11 talks, the Hague Process and several other informal talks in between. The SPLM/A held more than ten distinct peace talks with the NIF regime since it came to power.

## **2.4 Conclusion**

The Sudan's structural conflict began in 1821 when Mohammed Ali Pasha of Egypt, then a dominion of the Ottomans invaded and established colonial authority over the Sudan. Soon the recruitment of black Nubian and Fur slaves in Islamic armies followed, creating conditions for hatred and suspicion between the Southerners and Northerners. Consequently, slave trade seriously increased the tension between the North and the South. The Southern region exhibited a profound distrust of the Northerners based largely on the excesses with which the slave trade thrived. The slave trade was thus seen as a manifestation of structural asymmetry between the North and the South as it altered the overall economic layout of the Sudan.

The civil wars in Sudan started prior to the country's independence during the last days of the Anglo-Egyptian colonial administration. The British constructed a state designed to maintain security, an emphasis that did not change with independence. With improved security, the British constructed a series of dams and water works on the Nile. As a result, the tribes of Central Sudan who lived along the river North of Khartoum, received the most benefits from the British colonialism, the best opportunities for education and held the most positions in colonial state.

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<sup>94</sup> Mohammed, A.A. and El Amin, K. (2001): *Conflict Prevention, Management and Resolution: Capacity Assessment Study for the IGAD Sub-Region*; Nairobi, IGAD., pp.1-10.

<sup>95</sup> IGAD (2002): *IGAD Secretariat on Peace in the Sudan Machakos Protocol*; Nairobi, IGAD., p.3.

The South was, however, administered as virtually a separate after the British introduced closed districts which precluded Northern merchants and others from going to the South, restricted Arabic and Islam, and prepared for the South to join the British colonies in East Africa.

The Sudan at independence was characterised by the wealth of a few and poverty of the majority, by fierce competition for resources in conditions of scarcity and a state which controlled the production and distribution of material and social resources which became the enduring focus of conflict. Access to state power in such conditions was essential for the welfare of its subjects, but such access was never equally available to all the people of Sudan, and to many it was never available at all. This led to ethnic-based political struggles and when these failed to make headway, to armed struggles. During the closing days of Anglo-Egyptian rule, societal anxieties and tensions, coupled with administrative overreactions and ineptness, created a highly volatile situation in Southern Sudan. Arabic had been forced through as the language of education in the South. The Southern army staged a rebellion and massacred many Northerners living in the South. The government countered by unleashing the Northern army against the Southern civilians who perished in thousands. This marked the beginning of the first Sudanese civil war. The war escalated in 1963 with the formation of the Anyanya, which proclaimed an autonomous state in the South and embarked on a guerrilla war against the government. The Addis Ababa Agreement signed on February 1972 between Nimeiri's government and the leaders of the South brought fighting to a halt. However, it did not lead to peace building as the war ignited eleven years later, marking the second Sudanese civil war.

Apart from the Addis Ababa Accord, there had been many failed attempts to resolve conflict in Sudan. These were the 1947 Juba Conference, the 1965 Khartoum Roundtable Conference, the Movement for Colonial Freedom, the 1986 Koka-Dam Conference, the 1988 Sudan Peace Agreement, the 1985/89 National Constitutional Conference, the Jimmy Carter Nairobi talks, and the Abuja negotiations. It is against this background of failed peace initiatives that the IGAD, a sub-regional body, entered the Sudanese conflict as a mediator in 1993 in an attempt to broker peace between the SPLM/A and the GoS. The next chapter will show how the IGAD emerged as a tool of armed conflict resolution in the Sudan from 1993 until the signing of the CPA on 2005.

## **CHAPTER THREE**

### **THE IGAD PEACE PROCESS AND THE COMPREHENSIVE PEACE AGREEMENT, 1993-2005**

#### **3.0 Introduction**

The Inter-Governmental Authority on Drought and Development (hereafter IGADD), headquartered in Djibouti, was created in 1986 by Sudan, Djibouti, Ethiopia, Kenya, Somalia and Uganda. Eritrea joined after its independence in 1993. The organization was originally conceived by its drought-prone member states as a way of coordinating measures to manage the effects of drought and desertification. It later gave way to the Inter-Governmental Authority on Development.

The IGAD peace initiative on Sudan appeared to have achieved what other efforts and processes had failed to do in more than twenty years, namely reaching a signed peace agreement between the SPLM/A and the GoS. IGAD's engagement in the Sudan peace process began on September 7<sup>th</sup> 1993 when it established a Standing Committee on Peace to assist negotiations and end Sudan's civil war. A Declaration of Principles (hereafter DOP) was proposed and quickly accepted by the SPLM/A as a basis for negotiations, but was not endorsed by the GoS until 1998. By this time, the peace process was floundering and in an effort to reactivate it the mandate was renewed by the IGAD Sub-Ministerial Committee on the conflict in Sudan. This Committee established a Secretariat for the IGAD Peace Process on the Sudan based in Nairobi with the mandate to carry out continuous and sustained mediation efforts with a view to arriving at a peaceful resolution of the conflict.<sup>96</sup>

The signing of the CPA on January 9, 2005 in Nairobi, the culmination of more than a decade of intervention by the IGAD, ended the hostility between NCP and SPLM/A and brought to an end the brutal civil wars that engulfed Sudan since its independence in 1956. This was a milestone in the history of Sudan and a major impact on the country, the region, and beyond. This chapter will discuss the IGAD peace process from 1993 through to the Machakos Process, the 2003 Naivasha

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<sup>96</sup> IGAD. "*Structure and Terms of Reference for the Secretariat of the IGAD Peace Process on Sudan*," Nairobi. 21 July 1999, p.18.

Process up until the signing of the CPA on January 9<sup>th</sup>, 2005. The chapter will end by looking at the objectives of the CPA.

### 3.1 The IGAD Peace Process

The failure of the Nigerian efforts at peace-making and the growing threat Sudan's war posed to regional security led the regional IGAD to assume a leading role in the peace process.<sup>97</sup> This is a clear illustration of the systemic theory of war. The IGAD, a regional organization interested in the stability in the region, and concerned about the spread of political Islam and aiming at the unity of Sudan, began a process in 1994 between the SPLM/A-United and the GoS. The mediation by the countries of IGAD started in 1993 when the Sub-Committee on peace in the Sudan was constituted. The IGAD Sub-Committee was entrusted with the responsibility of bringing the Sudanese conflict to an end through a negotiated settlement.

On February 1994, in Addis Ababa, the then President of Kenya, Daniel Arap Moi, was mandated to mediate as the chairman of the Sub-Committee for peace in Sudan. Thereafter, the session of the Standing Committee was convened in Nairobi on March 1994 to define the principles that constituted the framework for negotiation known as the Declaration of Principles.<sup>98</sup> Nairobi then became the centre for negotiation process that culminated in the CPA on January 9, 2005.<sup>99</sup> The DOP was supposed to constitute the basis for resolving the conflict in Sudan. It was considered a road map to peace. However, SPLM/A chairman John Garang insisted on what he called "Zero Interim Period," meaning that he was more in favour of a split between the North and the South than unity.<sup>100</sup> His insistence, however, did not bear fruits but all the same he signed the DOP. All the others agreed that what the DOP had come up with was a proper diagnosis of the conflict. President al-Bashir did not agree to sign the DOP as the document through which everything else could be negotiated.

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<sup>97</sup> John, Young. (2012), Op. cit., p. 79.

<sup>98</sup> Samson, L. Kwanje. (2004): "The Sudan Peace Process: From Machakos to Naivasha," in Mwangi, M.(ed), *African Regional Security in the Age of Globalization*; Heinrich Boll Foundation., p.97.

<sup>99</sup> Seii, T.J. (2004): *The Inter-Governmental Authority on Development and the Sudanese Peace Process: Challenges and Future Prospects*; Pretoria, Africa Institute of South Africa, pp.15-21.

<sup>100</sup> Waithaka, Waihenya. (2006): *The Mediator: Gen Lázaro Sumbeiyó and the Southern Sudan Peace Process*; Nairobi, Kenway Publications., P.36.

Among other declarations, the DOP stated that all parties to the conflict should fully accept and commit themselves to the position that the history and nature of the Sudan conflict “demonstrate that a military solution cannot bring lasting peace and stability to the country; that a peaceful and just political solution must be the common objective of the parties of the conflict and that the rights of self-determination of the people of South Sudan through a referendum must be affirmed.”<sup>101</sup> The document detailed the need to cater for the diverse nature of the Sudanese society and listed maintenance of unity in Sudan as one area that should be given priority. The DOP made it clear that the complete political and social equalities of all the peoples in the Sudan must be guaranteed by law and that extensive right of self-determination on the basis of federation, autonomy, and so on, to the various peoples of the Sudan must be affirmed. A secular and democratic state, the document also stated, was to be established in Sudan and freedom of worship and religion “be guaranteed in full to all Sudanese citizens.”<sup>102</sup> It was not a long document, but it dealt with the conflict areas that had paralyzed the Northern and Southern parts of Sudan and locked them in a furious war. This was the document that was to guide future negotiations between these two parties.

On July 1994, the third session was convened in Nairobi to deliberate on the draft DOP. In the same year, the fourth session of the Standing Committee was held on September in Nairobi, and the positions of the parties to the conflict continued to harden and became further polarized. This led to the convening of the Second Summit of IGAD Heads of State Peace Committee in Nairobi on September 1994, which resolved that the IGAD peace process was to continue and that the DOP was to form the basis of negotiations.<sup>103</sup> Unfortunately the negotiations stalled for 33 months due to disagreements over the DOP.

In 1997, an Extraordinary Summit of IGAD member states was convened in Nairobi which called for revival of negotiations. As the war in Sudan raged, it was becoming urgent that the Presidents of the countries neighbouring Sudan accelerate the peace process. The region, they rightly argued, was lagging behind as a result of the conflict in the region and an urgent solution

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<sup>101</sup> Waithaka, Waihenya., Op. cit., pp.36-37.

<sup>102</sup> Ibid.

<sup>103</sup> IGAD Heads of states communiqué issued in state house, Nairobi, 19<sup>th</sup> September, 1994.

had to be found.<sup>104</sup> It was only then that the Government of Sudan took a positive step by accepting the DOP as the basis for future negotiations.<sup>105</sup> Though they accepted with reservations and qualifications, the very existence of this widely-agreed set of principles on which peace could be based was to have a significant impact on the international community and ultimately on the Sudanese opposition.<sup>106</sup> Therefore, on September 1997 the negotiations resumed under the IGAD Ministerial Sub-Committee on the Sudan peace process whose first session was held at the same time in Nairobi.

Against this background, the IGAD partner's forum and civil society groups got the IGAD states to agree to the establishment of a permanent secretariat and the appointment of 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 1991 mandate was renewed on July 1999 with the support of the parties to the conflict and a secretariat based in Nairobi was established to carry out mediation. It was also decided to have a special envoy appointed by the President of Kenya while each of the member states provided full time envoy to the peace process.<sup>107</sup> Consequently, General Lazaro Sumbeiywo was appointed Kenya's special envoy to the Sudan peace process and the chairman of the Technical Committee, with the then Foreign Affairs Minister, Kalonzo Musyoka, as the chair of the Council of Ministers. However, in 1998 Gen. Sumbeiywo left the country for further studies and a new envoy Ambassador Daniel Rachuonyo Mboya, a veteran diplomat, was appointed to take over and set about establishing the secretariat and conducting the mediation.<sup>108</sup>

The second session of the Ministerial Sub-committee meeting was held in Nairobi on May 1998 where it was agreed that self-determination was to be exercised in the South during an interim period. The parties further agreed to facilitate free and unimpeded flow of humanitarian assistance to areas affected by famine. At the third session of negotiations convened in Addis

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<sup>104</sup> Waithaka, Waihenya., Op. cit., p.36.

<sup>105</sup> IGAD Heads of states communiqué issued in state house Nairobi 9<sup>th</sup> July, 1997.

<sup>106</sup> Douglas, H. Johnson. (2003), Op. cit., pp.101-102.

<sup>107</sup> John, Young. (2012), Op. cit., p.87.

<sup>108</sup> Waithaka, Waihenya., Op. cit., p.41.

Ababa on August 1998, it was agreed that the South was to be determined by the border of 1<sup>st</sup> January, 1956. However, Khartoum did not sign a communiqué re-affirming this.<sup>109</sup>

The fourth session of the IGAD Ministerial Sub-Committee was held on July 1999 in Nairobi. This session agreed on the establishment of a permanent structure for conducting the negotiations. It was decided that negotiations under the secretariat were to be conducted under two political committees, namely the Political and Transitional Committees. The Political Committee meeting was held on January 2000 where the common areas of understanding and points of differences were established. The points of differences were highlighted as state and religion; the issue of marginalized areas- Abyei, Southern Kordofan and Southern Blue Nile; the right to self-administration, wealth and power sharing and the status of the two armies (the SPLA and the Sudan Armed Forces).

The second and third Political Committee meetings were convened on February and April 2000 respectively, which attempted to narrow down the differences, but with no success.<sup>110</sup> The parties reconvened from September-October, 2000. At the fourth Political Committee meeting, the IGAD envoys presented to parties a proposal that attempted to derive a common ground position on state and religion, the issue of marginalized areas- Abyei, Souther Kordofan and Blue Nile, self-administration and wealth sharing. However, no agreement was reached. It thus became clear that since the inception of the sub-committee in 1994, there was no breakthrough in the peace process. This necessitated the rejuvenation of the IGAD peace process that became the Machakos Phase in Kenya.<sup>111</sup>

### **3.1.1 The Machakos Process**

This includes the Machakos 1 and 11 peace process. It is in this phase where the Machakos Protocol and MOU on cessation of hostilities were signed.

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<sup>109</sup> Samson, L. Kwanje., Op. cit.,pp.97-98.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.



### 3.1.1.1 Machakos 1

The Machakos Peace Process began on November 2001 when Gen. Sumbeiywo was appointed as a special envoy to the IGAD Peace Process on Sudan replacing Ambassador Rachuonyo Mboya. An extraordinary summit of the IGAD Sub-Committee on the Sudan peace process was convened on June 2001 to chart the way forward by establishing a new mechanism and an innovative approach to negotiations. Apart from the heads of state of Kenya, Djibouti, Eritrea, Ethiopia and Uganda, the chairman of the SPLM/A and the President of Sudan also attended the summit. The final communiqué of the summit also recognized the outstanding issues that constituted assembling block to the negotiations and recommended serious dialogue between the parties.<sup>112</sup>

The first session of what would prove to be the last phase of the Sudan Peace Process began at Karen in the outskirts of Nairobi on May 2002. The NCP negotiating team was led by Idris Mohamed, a State Minister in the Office of the Presidency, and the SPLM team headed by Elijah Malok, an uncle of Garang. The first concern was to gain acceptance of a framework agreement, but the Karen meetings ended with only minimal progress.<sup>113</sup> Although no agreement was signed in Karen, the parties adopted the modalities of the Task Force which was signed by the parties. The proposed meeting was to be held on June, and Gen. Sumbeiywo called on both parties to prepare their delegation for it. Machakos town, about 70 kilometres from Nairobi, was chosen as the venue for this first set of talks. For the purposes of negotiations, it was far enough from the interference of embassies and near enough to allow briefings for those needing to be briefed. It was in this place that the delegates met on June 17, 2002 to get on with the tenuous business of negotiating for peace.<sup>114</sup>

Meanwhile, Idris Mohamed was still leading the government delegation, while in the SPLM camp Elijah Malok was replaced by another Garang loyalist, Nhial Deng Nhial. In an attempt to speed up the slow pace, Gen. Sumbeiywo and the mediators drafted a single negotiating text and on July 2002, the parties succeeded for the first time in reaching an agreement on the issues of the right to self-determination, and the separation of state and religion. This agreement came to

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<sup>112</sup> Samson, L. Kwanje., Op. cit., p.98.

<sup>113</sup> John, Young. (2012), Op. cit., pp.91-92.

<sup>114</sup> Waithaka, Waihenya., Op. cit., pp.82-84.

be widely known as the Machakos Protocol and was signed by Gen. Salva Kiir on behalf of the SPLM/A and Ghazi Salhudian on behalf of the NCP before President Daniel Moi at State House, Nairobi, on 20<sup>th</sup> July, 2002.<sup>115</sup> The two contentious points over which the belligerents had not agreed before were settled in the first phase of the Machakos Peace Process.

#### **3.1.1.1.1 Separation of State and Religion**

On state and religion the document stated, inter alia:

*The national/central constitution was to guarantee freedom of belief, worship, and religious practices to all Sudanese. Concerning legislation, the national parliament was to operate in two distinct ways. When it legislated for the Northern states, it was to use Sharia and customs as the source of legislation. However, when it enacted national legislation applicable to Southern Sudan, it was to use non-Sharia sources, and could derive its legislation from popular consensus, values and customs of the people of the South. The central government and related institutions were to do likewise.<sup>116</sup> There was to be freedom of belief, worship and conscience for followers of all religious faiths or beliefs or customs and no one was to be discriminated against on such grounds. It also affirmed that eligibility for public office, including the Presidency, public service and the enjoyment of all rights and duties was to be based on citizenship and not on religious beliefs and customs. The national government, it was also agreed, was to take into account the religious and cultural diversity of the Sudanese people in all its laws.<sup>117</sup>*

In addition, there was to be a central bi-cameral legislature consisting of an upper and lower house. The lower house was to consist of members directly elected by the people while the upper house was to have an equal number of representatives from North and South. The function of the upper house was to protect states from national legislation of a religious nature, which would adversely affect them. If such a case arose, the upper house would block it. As a corollary to this, the administration of Southern Sudan was to involve substantial devolution of powers (ministers and national institutions) from the centre.

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<sup>115</sup> John, Young. (2012), Op. cit., pp.92-93.

<sup>116</sup> IGAD, *Machakos Protocol Framework*, Machakos Kenya, 20<sup>th</sup> July, 2002.

<sup>117</sup> Ibid.

### **3.1.1.1.2 Right to Self-Determination**

The document also addressed the issue of self-determination and stated that the people of Southern Sudan were to have the right of self-determination, which was to be exercised through an internationally monitored referendum. The referendum was to be on two clear options: namely, confirmation of the unity of Sudan as set out in the peace agreement, or secession. The interim period was to be in two phases: namely, a pre-transitional period of six months and the main transition/interim period of six years.<sup>118</sup>

During the pre-transition period, the parties agreed to work out a legal framework for the agreement and establish institutions of governance as provided in the agreement. During this period, steps were also to be taken towards the implementation of a comprehensive cease fire while assistance and resources were to be mobilized and secured for the peace process and reconstruction. The main transitional/interim period was to entail operationalization of the institutions of governance both in the centre and in the South and the implementation of all the arrangements and principles set out in the peace agreement.<sup>119</sup> However, on these two issues, the Protocol only provided a platform on which further negotiations could be undertaken for resolving the conflict. The Machakos Protocol was not a comprehensive agreement, but a framework for negotiations and over-arching blue print for peace and change.

After the signing of the Machakos Protocol, the SPLM convened a Consultative Conference on the IGAD Peace Process (hereafter CCIPP) on August 2002 in Kapoeta County, Eastern Equatoria, where representatives from all the five regions of the New Sudan deliberated on the Protocol. The CCIPP came up with resolutions to be used by the SPLM/A delegation as guidelines for negotiations. The SPLM/A delegation was fully mandated by the conference to negotiate with confidence.

### **3.1.1.2 Machakos 11**

The second session of the Machakos Process began on August 2002. Gen. Lazaro Sumbeiywo and the other envoys from Eritrea, Ethiopia, Uganda and Djibouti were joined by observers from

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<sup>118</sup> IGAD, *Machakos Protocol Framework*, Machakos Kenya, 20<sup>th</sup> July, 2002.

<sup>119</sup> *Ibid.*

US, UK, Norway and Italy. The agenda that was finally adopted by the parties to the conflict was structured as follows: the structures of the government; power sharing; wealth sharing; human rights and judiciary and the rule of law; security arrangements, comprehensive cease-fire; modalities for implementing the peace agreement and regional and international guarantees.

In order to assist the parties in their discussions, the mediators drew a two weeks programme of lectures and seminars. Experts and distinguished resource persons from the UK, Norway, USA, South Africa and Kenya, delivered lectures and shared their experiences with the parties. These were followed by comments, questions and discussions by the participants, focusing on structures of government, and wealth sharing during the interim period.<sup>120</sup> The mediators then came up with a draft paper, the Draft Protocol on Power Sharing within the Framework of a Broad Based Transitional Government of National Unity between the Government of the Sudan and SPLM/A. This document focused mainly on the organizations of government and the creation of institutions at the national state, and Southern Sudan levels.

### **3.1.2 Government of Sudan Withdrawal from Machakos 11**

On September 2002, John Garang's army overran the town of Torit, killing Mulla Ahmed Haj Nur, a close friend of President Bashir and other high ranking GoS officers, to the chagrin of al-Bashir. The mediators informed the SPLM/A delegation that the GoS had decided to recall its delegation from Machakos. The next day, the GoS delegation issued a press statement to explain their withdrawal. In the letter dated September 2, 2002, the government accused the SPLM/A of introducing other demands that were not in the Machakos Protocol, singling out power sharing, relations between state and religion, the structure of the government and the boundaries of the South.<sup>121</sup> The GoS was also unhappy with the SPLM/A's insistence that the three conflict areas be addressed and accused the IGAD secretariat of accepting the SPLM/A's demands with a view of pleasing them at the expense of the rules agreed to on May 2002 in Karen. The GoS demanded that IGAD limits the peace process to Southern Sudan in accordance with the borders of the January 1<sup>st</sup> 1956.

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<sup>120</sup> Samson, L. Kwanje., Op. cit. p.100.

<sup>121</sup> Waithaka, Waihenya., Op. cit. p.45.

Eager to see the talks back on track, President Daniel Moi met Garang at state house Nairobi on October 2002 and informed him he would work out a formula for returning to the negotiations. Meanwhile, Gen. Sumbeiywo proceeded to Khartoum to convince the GoS to return its delegation to the talks. A few days later, the SPLM/A withdrew from Torit. The Kenya's Foreign Affairs Minister, Kalonzo Musyoka, called a subcommittee ministerial meeting to discuss the resumption. By that time, Gen. Sumbeiywo had drafted a document on cessation of hostilities. The ministers discussed the document after which they invited the parties to a meeting. The meeting culminated in their signing an agreement called the Memorandum of Understanding on Cessation of Hostilities on 15<sup>th</sup> October, 2002 and the immediate resumption of the talks,<sup>122</sup> in order to create and maintain a conducive atmosphere through the negotiations until all the outstanding issues were resolved.<sup>123</sup>

In essence, the MOU stipulated that the two parties were to maintain a period of tranquillity during the negotiations by ceasing hostilities in all areas of Sudan and ensuring a military stand down for their forces including allied forces and affiliated militia. In this case, cessation of hostilities meant retaining the military positions, refraining from any offensive military action by all forces, ceasing the laying of land mines, refraining from occupation of new areas, ceasing to supply all areas with weapons and ammunitions, refraining from any acts of violence or other abuse on the civilian population, and freezing media wars and propaganda against one another. The MOU was later reinforced by an addendum to it, after repeated violations.<sup>124</sup> The addendum among other things, allowed the establishment of a Verification and Monitoring Team (hereafter VMT). Both the MOU and the addendum contributed to the maintenance of the cease-fire and consequently created a conducive atmosphere for negotiations.

Even as the signing of the Addendum to the MOU was being executed, a new political dispensation was taking place in Kenya. Daniel Arap Moi, the man who had whole heartedly supported the Sudan peace process, had finally retired and Mwai Kibaki took over the reins of power, December 2002. Gen. Sumbeiywo and Moi shared the vision of a peaceful, united Sudan

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<sup>122</sup> Waithaka, Waihenya., *Op. cit.* pp. 97-99.

<sup>123</sup> See memorandum of understanding between the GOS and SPLM/A resumptions of negotiations on peace in the Sudan dated 15<sup>th</sup> October, 2002.

<sup>124</sup> See addendum to the MOU on the secession of hostilities between the GOS and the SPLM/A dated 4<sup>th</sup> February, 2003.

and they had single mindedly committed themselves to that cause. Though the new President was likely to continue with the process, it was not certain what level of access Gen. Sumbeiywo would enjoy and what kind of support would be extended to him. As the head of the army, Gen. Sumbeiywo found it difficult to balance his duties at IGAD with those of the military, so the talks were postponed until after the elections.

Determination to see the peace process go on, however, ensured that no lapse occurred. When the talks resumed on January 2003 in Karen, Gen. Sumbeiywo was to find out that no business could be transacted without first tackling the issue of the three conflict areas. The conflict areas kept reappearing and it was obvious that the negotiations would go nowhere if the matter was not immediately dispensed with. The negotiations on this particular problem took time to yield fruits. The three areas- Abyei, Southern Kordofan and Blue Nile had similar problems that they wanted resolved, including denial of political freedoms, political negligence by the centre, oppression, political marginalization, political misrepresentation, lack of resources, oppression of women and a host of other social issues. After two weeks, very little had been achieved. Gen. Sumbeiywo was left with no choice but to call off the talks on the conflict areas.

As part of looking for a long-lasting solution to the conflict areas, Gen. Sumbeiywo took to travelling in Sudan, visiting all the areas and hearing first-hand from the people what they really wanted. After his journey to Sudan and his talks with ordinary citizens, who were the real sufferers in the conflict, he was motivated. So when he returned to Nairobi, he began writing a document called the Framework on the Resolution of the Outstanding Issues Based on the Machakos Protocol.<sup>125</sup> The document sought to identify the critical remaining issues and tried to resolve fairly what the Sudanese needed to resolve if peace was to be attained. He intended to present it to the negotiating parties as a draft on which the negotiations would be based. He and the Foreign Affairs Minister, Kalonzo Musyoka rallied the entire region to support the document. They went to see the Heads of States of Uganda, Eritrea and Ethiopia. Following briefings to both sides in Khartoum and New Site, a Southern Sudanese settlement, on the contents of the framework and receiving their go-ahead to pursue possible trade-offs within the text that the parties themselves could not present, Gen. Sumbeiywo convened a meeting in Nakuru on July

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<sup>125</sup> Waithaka, Waihenya.,Op. cit., pp.109-114.

2003, attended by the parties and observers. This became the Nakuru framework. At the same time, an African Union meeting was taking place in Maputo. Two important things happened: First the government refused to negotiate on the document Gen. Sumbeiywo had prepared, And secondly, in Maputo, the Sudanese Foreign Minister presented a paper to the Council of Ministers praising the progress IGAD had made, but also requested that the negotiations be now taken over by South Africa, though South Africa later dropped their acceptance of the proposal.

The talks in Nakuru became deadlocked. There was, according to Gen. Sumbeiywo, no hope of going forward. In the framework, he had proposed that there be a collegial decision making process between Khartoum and Garang. Arising from what the people had told him, he also proposed that there be two separate armies, one of which would be for the Southerners. It was rejected in toto by the government and the SPLM/A would not make any concession on the issue of the armies, thus the deadlock continued.<sup>126</sup> Gen. Sumbeiywo did not resign and never showed any sign of being disappointed at the rejection of his draft. He called for the next meeting in Nanyuki, slated for August 10, 2003. He was unwilling to change the document unilaterally, but there was willingness on the part of the parties to find a way around it.

On the very first day of the talks, SPLM/A delegates demanded to have the rules of procedures for the negotiations. Gen. Sumbeiywo accepted and proposed that they adopt the earlier methodology they had used before which was to deal with the parties separately. This was rejected by the SPLM/A, who wanted direct talks. As the rules were being made, the government rejected SPLM/A's proposal and insisted on having proximity or direct talks, which means that the mediators had to deal with each party separately. The talks were deadlocked again. On August 23, Gen. Sumbeiywo called off the Nanyuki meeting. This set the stage for the biggest meeting of all, between Ali Osman Taha and John Garang in Naivasha.<sup>127</sup>

### **3.1.3 Naivasha Process**

The Naivasha process was characterized by high level consultations and negotiations between GoS and the SPLM/A leaderships. This processes started on September 2003 when, for the first

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<sup>126</sup> Waithaka, Waihenya., Op. cit., p.119.

<sup>127</sup> Ibid., p.120.

time, the negotiating parties were led by their major principals and it was expected that their encounter would either achieve a breakthrough in the negotiations, or set them back. The GoS delegation was led by the First Vice President of the Sudan, Ali Osman Mohammed Taha, while the SPLM/A delegation was led by the Chairman of SPLM and Commander-in-Chief of the SPLA, John Garang de Mabior. A lot of issues were resolved during the process, particularly on security arrangements and wealth sharing.

### **3.1.3.1 Security Arrangements**

On September 25<sup>th</sup>, 2003 the parties agreed to an internationally monitored ceasefire to come into effect from the date of signature of a Comprehensive Peace Agreement.<sup>128</sup> This was a key breakthrough. The salient features of the security arrangements included the existence of two armies-the SPLA in Southern Sudan and the Sudan Armed Forces (hereafter SAF) in Northern Sudan- which were to remain separate during the interim period. They were to be considered and treated equally as Sudan's National Armed Forces. The two forces were to be disengaged and separated.

The agreement also proposed the formation of joint integrated units consisting of equal members from the Sudanese Armed Forces and the SPLA during the interim period. The joint /integrated units were to constitute a nucleus of a post-referendum army of Sudan if the results of the referendum confirm unity; otherwise they were to be dissolved and the component parts integrated into their respective forces.<sup>129</sup> Except for those deployed in the joint/integrated units, the rest of the forces of SAF then deployed in the South were to be redeployed north of the South/North border of 1/1/1956 under international monitoring and assistance within and up to two and a half years from the beginning of pre-interim period. Except for those deployed in the joint/integrated units, the rest of SPLA forces then deployed in Nuba Mountains and Southern Blue Nile were to be redeployed south of the South/North border of 1/1/1956 as soon as the joint/integrated units were formed and deployed under international monitoring and assistance.

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<sup>128</sup> Waithaka, Waihenya., Op. cit., pp.124-125.

<sup>129</sup> Samson, L. Kwanje., Op. cit., pp.102-103.



The SPLM/A also undertook to demobilize Southern Sudanese soldiers apart from those serving in the SAF in Southern Sudan and to absorb them into various institutions of the government of Southern Sudan. Also, no armed group allied to either party was to be allowed to operate outside the two forces and those who desire and qualify were to be incorporated into the organized forces of their party (army, police, prisons and wildlife forces), while the rest were to be reintegrated into the civil service and civil society institutions. In this regard, the parties agreed to address the status of other armed groups in the country with a view of achieving comprehensive peace and stability in the country and to realize full inclusiveness in the transition process.<sup>130</sup> The principles of proportional downsizing of the forces on both sides, at a suitable time, following the completion of compressive ceasefire arrangements, were agreed and an internationally monitored ceasefire was to come into effect from the date of signature of comprehensive peace agreement. The two parties together with the IGAD mediators and international experts were to work out details of the ceasefire agreement.

### **3.1.3.2 Wealth Sharing**

On wealth sharing during the interim period the two parties agreed that the wealth of Sudan was to be shared equitably so as to enable each level of government to discharge its legal and constitutional responsibilities and duties and that the national government was to fulfil its obligation to provide transfers of revenue to the government of Southern Sudan. Without prejudice to the position of the parties with respect to ownership of land and subterranean natural resources including in Southern Sudan, the ownership of those resources was to be addressed. The parties agreed on the principle of regulation, management and the process of sharing wealth from subterranean natural resources.<sup>131</sup> On the issue of oil, it was agreed that after the payment to an oil revenue stabilization account and at least of 2% of oil revenues allocated to the oil producing states, 50% of the net oil revenue derived from oil producing wells in Southern Sudan was to be allocated to the government of Southern Sudan, GoSS and 50% to the National Government, GoS.

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<sup>130</sup> Samson, L. Kwanje., Op. cit., p.103.

<sup>131</sup> Ibid.

The parties also agreed that an independent National Petroleum Commission (hereafter NPC) was to be established during the pre-interim period and its decisions were to be by consensus. The composition of the NPC was to include the President of the republic of Sudan and the President of the GOSS as co-chairs and permanent members, four permanent members representing the national government, four permanent members representing the GoSS, and not more than three representatives of an oil producing state/region in which petroleum development is being considered, non-permanent members.<sup>132</sup> The NPC was to formulate public policies and guidelines in relation to the development and management of the petroleum sector, monitor and assess the implementation of those policies to ensure that they work in the best interests of the people of Sudan, develop strategies and programmes for the petroleum sector, negotiate and approve all oil contracts for the exploration and development of oil in the Sudan and ensure that they are consistent with the NPC's principles, policies and guidelines.

More importantly, it was also agreed that there should be a dual banking system in the Sudan. An Islamic banking system was to operate in the Northern Sudan and a conventional banking system was to operate in Southern Sudan. In this regard, there was to be one central bank with two windows to cater for the two banking systems and the two currencies that were presently operating in the two parts of the country. In conforming to the principal of decentralization, it was agreed that the levels of government (the National, the Government of Southern Sudan and Regional/States Government) were to be entitled to legislate, raise and collect taxes and revenues as was to be defined in the constitution. The Wealth Sharing Agreement was signed on January 7, 2004. The parties continued negotiating on other topics until the talks adjourned later that month.<sup>133</sup>

### **3.1.3.3 Political and Administrative Status**

Upon resumption on February 17<sup>th</sup>, 2004, first on the agenda was the three conflict areas. The remaining issues that needed to be resolved were the politics and administrative status of the three conflict areas in Central Sudan: namely, the Nuba Mountains (Southern Kordofan), the Funj Region (Southern Blue Nile) and the Dinka-Ngok of the District of Abyei. The second issue

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<sup>132</sup> Samson, L. Kwanje., Op. cit., p.104.

<sup>133</sup> Waithaka, Waihenya., Op. cit., pp.128-129.

was the search for a mechanism for the fair sharing of power between the North and South.<sup>134</sup> The trickiest part of the negotiations was the bit on power sharing and the issue of Abyei's boundaries (whether they would remain as they were and whether to hold a referendum or not). Eventually, it was resolved that upon the signing of the peace agreement, the residents of Abyei were to be citizens of both western Kordofan and Bahr el-Ghazal with representation in the legislatures of both states. It was also agreed that after the interim period, Abyei would also cast a separate ballot simultaneously with the referendum for Southern Sudan. This was to be done through a Referendum Commission established by the Presidency. It was also resolved that the national government was to provide Abyei with assistance to improve the lives of the peoples of Abyei, including urbanization and development projects.<sup>135</sup>

In Southern Kordofan and Blue Nile states, the parties agreed, among other concessions, that human rights and fundamental freedoms were to be guaranteed to all individuals in the state as prescribed in the Interim National Constitution and that the diverse cultural heritage and local languages of the population of the state were to be developed and protected.<sup>136</sup> Agreements were reached on the state executive, structure of the state government, the state legislature, the state share in the national wealth, the state land commission, and that the development of human resources and infrastructure was to be the main goal of each region and was to be conducted to meet human needs in accordance with the best-known practices of sustainable development within a transparent and accountable framework.

It was also agreed that the peaceful resolution of the conflict in the two regions shall form part of the comprehensive peace agreement in the Sudan, and the parties affirmed the rights of the peoples of Nuba Mountains and Southern Blue Nile regions to be popularly consulted to determine their constitutional, political and administrative status. The parties agreed further that the Nuba Mountains and Southern Blue Nile Regions shall enjoy full autonomy to redress the injustices suffered by the people of these areas and which will meet their aspirations and that during the interim period the autonomous self-governing regions of Nuba Mountains and

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<sup>134</sup> Samson, L. Kwanje, *Op. cit.*, p.104.

<sup>135</sup> Waithaka, Waihenya, *Op.cit.*,p.130.

<sup>136</sup> *Ibid.*

Southern Blue Nile shall fall under the SPLM component of the Presidency.<sup>137</sup> A declaration summarizing what had already been agreed up on during the process (i.e. the Six Protocols, MOU and Addendum signed up to that time) was signed at state House, Nairobi, i.e. the Nairobi Declaration and ushered the negotiations into the homestretch. The mediator, thereafter came up with a document called Proposal on Method of Work for Conducting the Negotiation Session on Implementation Modalities, Including Regional and International Guarantees. Deftly, the chief mediator guided the talks through this final phase that was critical in stipulating how and when the mechanisms as defined in the Peace Agreement were to be set into effect. Finally, the First Vice-President, Ali Osman Taha and John Garang signed the Comprehensive Peace Agreement on January 9<sup>th</sup>, 2005 at a colourful ceremony held at the Nyayo National Stadium, Nairobi. This was to mark the official end of the 22 year old civil war in Sudan.<sup>138</sup>

### **3.2 CPA Objectives**

The CPA combined a series of Agreements and Protocols to address the-many sided problems in Sudan. The envisioned objectives of the document were:

#### **3.2.1 Ceasefire**

For the fear of escalation of the Sudan conflict and decadent humanitarian condition of the crisis, as well as burden of refugees already in neighbouring countries and conquest strain on the international community, it was important that regional actors wage in at least to tame the conflict. Since attack was met with unwavering resistance at the height of hostilities, a ceasefire was desirable at least to arrest and put the conflict in check. What this meant to some actors especially those under the aegis of IGAD threatened by spill-overs and others motivated by decaying humanitarian conditions is that a ceasefire was an expedient end-objective. In as much as escalation beyond the Sudan borders were prevented, they were contented. The actors' envisioned objective was a peace agreement that terminates bloodshed, loss of lives and destruction. Therefore, pressure was mounted on the contending factions to agree to a ceasefire in 2002, the signing and implementation of which could be interpreted as successful in 2005.

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<sup>137</sup> Samson, L. Kwanje., Op. cit., pp.104-105.

<sup>138</sup> Waithaka, Waihenya., Op. cit., pp.132-142.

### 3.2.2 Democratic Transformation or Transformational Stability

The basis for the struggle in Sudan was founded upon exclusion, marginalization and all forms of alienation from a common wealth to which South Sudan had sought to address since the first civil war. Therefore, the quest for transformational stability in form of adopting democratic principles in Sudan to be occasioned by a comprehensive peace agreement was signalled with the idea and ideals of synchronizing peace with democracy. This was informed by the neo-liberal promises that come with democracy and the democratic peace jargons that say ‘two democracies do not go to war.’<sup>139</sup> To those who hold this belief, SPLM and the International Crisis Group, until an equitable society where the rights and inclusiveness of all Sudanese is guaranteed and democratic transformation prevails, the comprehensive peace agreement would not have achieved its set objectives.<sup>140</sup> Hampson of the Mediationist school argue that this is the ‘comprehensive terms’ definition of successful peace agreement based on the fact that stability and equity is achieved. However, in the case of Sudan, expectation was on the establishment of state structures that strengthen economic and political justice.

### 3.2.3 New Sudan

A bone of contention was also the lack of recognition of the country as a highly diverse one against the quest to divorce the role of religion from state-governance. These were the envisaged problems that a comprehensive agreement of this nature was expected to address. In this context, therefore, the solution according to actors of this school is that there was a need for a ‘new Sudan’ to emerge that is not founded on religious principles.

While recognizing religion but not as determinant or basis of governance, inclusion or exclusion in political participation, access to common wealth and ultimately to make unity of Sudan attractive to all and sundry.<sup>141</sup> The leading proponent of this objective was the SPLM/A leader, John Garang who was quoted while explaining the content of the CPA as saying: “Arabism cannot unite us, Pan-Africanism cannot unite us, Islam or Christianity cannot unite us, only ‘Sudanism’ can unite us...Let us drop this crazy idea that we must be Arabs, even God will not

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<sup>139</sup> Michael, W. Doyle. (1983): “*Kant, Liberal Legacies and Foreign Affairs; Philosophy and Public Affairs.*” 12(3) Summer and Fall., pp.203-235.

<sup>140</sup> International Crisis Group, ‘*Sudan: Justice, Peace and the ICC*’ African Report No 152, 17 July 2009.

<sup>141</sup> International Crisis Group, Op. cit.

accept this. It is his infinite wisdom that made all of the 500 ethnic groups in Sudan, who is this to amend God's creation?"<sup>142</sup>

### **3.2.4 South Sudan Independence**

The advocacy and acknowledgement of right to self-determination for South Sudan was contained in the comprehensive peace agreement. Worth noting is that the CPA was structured to be clear in its options: Unity or Division. Thus the end must have been envisaged from the beginning. During the negotiations, the SPLM/A delegates demanded that principle of self-determination, including the option of an opt-out, or independence, had to be part of the negotiation text and be addressed at once. They threatened to leave the negotiations if issues important to them- particularly self-determination- were not addressed very soon. For the perceived untold hardship a party to the peace agreement had suffered, there was a need to seek redress and where this was not perceived in the context of what national reconciliation could pacify, secession would be opted.

### **3.3 Conclusion**

The continuous flawed agreement that marred Sudan Peace Agreements led to the formation of the IGAAD, the fore-runner to IGAD. This 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 cooperation in safeguarding the international order.<sup>143</sup> Conflict in Sudan was considered systemic and would affect the Horn of Africa, East Africa, regional and international systems.

In the wake of the failed Nigerian efforts, IGAD launched a peace initiative at its Addis Ababa Summit of September 7<sup>th</sup> 1993 and a Peace Committee made up of the heads of state of Ethiopia, Eritrea, Uganda and Kenya was established with the then Kenyan President Daniel Moi as the chairman. The mediation process was handled by a Standing Committee made up of 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 role.

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<sup>142</sup> John, Garang., Op. cit.

<sup>143</sup> El-Afindi, Abdelwhab. (2001): "*The Impasse in the IGAD Peace Process for Sudan: The Limits of Regional Peacemaking?*" African Affairs, No.100., pp.581-599.

This first phase accomplished a well thought out DOP, workable relations with the belligerents, an institutional focus in the Sudan secretariat, development of the system of ambassadors and envoys and international legitimacy. It also carried out a considerable work on wealth sharing agreement and on resolution of the problem of the marginalised territories that would feature in the subsequent CPA.

The period May 2002 to January 2005 marked the second phase of the IGAD peace initiative. Frustration with the lack of progress in the peace process and 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 provided the impetus for the second and successful IGAD peace initiative.<sup>144</sup> The rejuvenation of the peace process in its final phase was therefore a response to growing US interest in Sudan's conflict and the assumption it would support IGADs efforts. This is a clear illustration of the systemic theory of conflict. The mandate was further strengthened by the Sudan IGAD secretariat being legalised under Kenyan law and that gave its members diplomatic status and conferred on Chief Mediator Gen. Sumbeiywo the dual status of special envoy and Kenyan ambassador for peace. The increasing engagement of these officials in the peace process reinforced the growing sense of the Kenyan government ownership of the process, but at the same time weakened the link with the IGAD Secretariat. While the IGAD link weakened, that between Nairobi and Washington strengthened. The CPA was finally signed on January 9<sup>th</sup>, 2005 by John Garang and Osman Taha, at a colourful ceremony held at the Nyayo National Stadium, Nairobi. This was to mark the official end of twenty two years old civil war in the Sudan. The chapter ended by looking at a brief description of the CPA objectives, including ceasefire, democratic transformation/transformational stability, new Sudan and South Sudan independence. The next chapter will give a critical analysis of the CPA and its various Protocols to determine whether they were implemented or not.

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<sup>144</sup> John, Young. (2005): "*Sudan: A Flawed Peace Process Leading to a Flawed Peace,*" *Review of African Political Economy*. No. 103. Vol.32. pp.1-13.

## CHAPTER FOUR

### IMPLEMENTATION OF THE COMPREHENSIVE PEACE AGREEMENT IN SUDAN/SOUTH SUDAN

#### 4.0 Introduction

The implementation of a peace agreement following a civil war is one of the most critical and uncertain process of any post-war period. The simple act of former enemies placing their names side by side on a piece of paper represented the culmination of negotiations to supposedly end what were years, if not decades, of violence and war. Dozens of these accords have collapsed into renewed fighting and renewed rounds of negotiations.<sup>145</sup> The implementation phase of an agreement is the most volatile.<sup>146</sup> Steadman, et al opine that full implementation of peace accords proves important because it provides reassurances to wartime opponents that their partners in the settlement process value stability over conflict and remain committed to the process of establishing a self-enforcing peace.<sup>147</sup> Hoddie and Hartzell share the same opinion and argue that the full implementation of peace agreement process is important because it serves to convince adversaries that the commitments they made to peace in the bargaining stage of the settlement process are credible.<sup>148</sup> The failure to move forward with the implementation of agreements can result in fear and suspicion but, however, cannot always be viewed as a calculated move intent to renege on the terms of the agreement. Thus as peace agreements cannot fully anticipate the actions of a party after its signing, the implementation process is fraught with additional bargaining and re-negotiations between the parties to a conflict.

The signing of the CPA on January 2005 marked the end of Africa's longest running war. It established a six-year transition period and autonomy for Southern Sudan and incorporated agreements on security, boundaries, revenue sharing from Southern oil fields and the administration of the three contested areas. The aim of this chapter is to assess the

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<sup>145</sup> Lederach, John Paul. (2005): *The Moral imagination: The Art and Soul of Building Peace*; Oxford University Press., pp.41-43.

<sup>146</sup> Suzanne, Werner. (1999): *The Precarious Nature of Peace: Resolving the Issues, Enforcing the Settlement and Re-negotiating the Terms*; American Journal of Political Science 43(3), 912-934.

<sup>147</sup> Steadman, S. J., Donald, R., et al. (eds): *Ending Civil Wars: The Implementation of Peace Agreements*; Boulder, CO. Lynne Rienner & International Peace Academy. (2002), pp.1-27.

<sup>148</sup> Hoddie, M and Hartzell, C. (2003): "Civil War Settlements and the Implementation of Military Power-Sharing Arrangements," *Journal of Peace Research*, Vol.40, No. 3., pp.303-320.



implementation of the CPA. The chapter will give a critical analysis of the various Protocols of the CPA, whether they were implemented or not, and what impeded their implementation.

#### 4.1. CPA Implementation

On July 09, 2011 South Sudan became an independent state. For many this represented the successful culmination of a decade-long peace process. But long before July 09 it was clear that the secession of South Sudan was not going to bring sustainable peace with its Northern neighbour.<sup>149</sup> The whole essence of the CPA centres on the objectives of bringing about transformation in Sudan. This ambition in itself has raised a new definitional challenge of what “true transformation” in Sudan should represent. The governments in Khartoum and Juba had no intention of living up to their commitments to democratic transformation, and, despite the platitudes of the diplomats, the CPA was little more than an extended ceasefire. Critics decry the peace agreement between the government of the Sudan and the SPLM/A as incomplete, a result of the desire of the external actors for a quick solution that is neither truly comprehensive nor sustainable. Through a chronological analysis of the peace process between 2000 and 2005, the scope for compromise was limited and a significantly better deal was unlikely.<sup>150</sup> The international community’s prioritizing of a quick solution had unfortunate consequences: political opponents of the regime other than the SPLM were excluded from the negotiations, as were Sudan’s other conflicts, notably Darfur. As elaborate as it was, the CPA provided for a ceasefire, not a permanent settlement. In contrast to the official rhetoric, the limited goal of ending the war was more important than fundamental political change in the Sudan. According to Arkow M:

The eventual political partnership of the NCP and SPLM/A was a result of the Garang-Taha meetings. It was a power sharing agreement that excluded others. The CPA did not include other political parties and did not solve conflicts elsewhere in Sudan. During the CPA negotiations, the war in Darfur continued but surprisingly was never mentioned in the CPA. Why was Darfur ignored? Conflict in Darfur is still raging to date...<sup>151</sup>

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<sup>149</sup> John, Young., (2012), Op. cit., p.xiii.

<sup>150</sup> Ystein, H Rolandsen. (2011): “A quick Fix? A retrospective analysis of the Sudan CPA,”*Review of African Political Economy.*, p.6.

<sup>151</sup> Arkow, M., Oral interview, November 2013, Nairobi.

When the euphoria triggered by the signing of the CPA subsided, it was time to focus on transition from war to peace and on implementing the ambitious political and social programme embedded in the agreement. Mistrust between the parties remained; for the peace agreement to survive, cooperation was required. Some feared that the NCP had acceded to the CPA in order to buy time and that as soon as international attention moved elsewhere, they would evade implementation. Another element of uncertainty involved government-supported militias in the South, which constituted a significant threat to the consolidation of peace. Moreover, the war in Darfur continued to rage.<sup>152</sup>

Indeed, before July 09 war had broken out in the Northern states of Southern Kordofan and Blue Nile, rebellions were spreading in the Nuer lands of South Sudan, the war continued apace in Darfur, there were fears that the recently resolved conflict in Eastern Sudan might be resurrected and there were periodic clashes between the armies of Sudan and South Sudan and numerous aerial bombings of the South. And, just as during the years of North-South war, refugees from Sudan and South Sudan were fleeing to Ethiopia for security. In 2006 Salva Kiir reached an agreement with the most important Southern militia leaders to absorb them and their leaders into the SPLM/A. Skirmishes in Malakal and Abyei between military units associated with the two former enemies were kept from escalating into a resumption of general warfare. Such local violence, and the general lack of policing capacity, has been the main reason for continuing insecurity in the South. Although protection of civilians was part of the mandate for the large and well-founded UN mission, UNIMIS has barely been able to monitor the ceasefire arrangements and it has failed significantly in terms of peace building and the protection of civilians against local violence. The joint integrated units have also proved to be a failure, and have indeed been more of a liability than an enforcer of peace.

The CPA did not include other political parties, solve conflicts elsewhere in Sudan or provide a blue print for democratization and economic development. But expansion of the peace process to address any of these presumed shortcomings would have derailed the peace talks and most likely resulted in a renewal of the war. Attempts at including ambitious peace building agendas would

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<sup>152</sup> Ystein, H. Rolandsen. (2011), Op. cit., p.10.

doom the immediate effort at hand, to end the war. However, the fact that the CPA committed both sides to making continued unity attractive hindered constructive debate about making separation bearable to NCP and the North as such. Division of the country would solve at least temporarily, the North-South conflict, but would not eliminate the possibility of future war between the resulting two countries; nor did it ensure security, development or political empowerment of the Sudanese. The temporary framework imbued in the Protocols signed in Nairobi on January 09, 2005 facilitated a relatively quick end to the war by allowing some issues to be deferred. This also ensured, however, that an ensuing round of negotiation over the South's terms of secession became elaborate and difficult. These negotiations were not finalized at the time of South Sudan's secession and would require considerable statesmanship from Sudanese leaders and engagement from neighbouring countries and the wider international community to be satisfactorily concluded.<sup>153</sup> The other post referendum issues, including border treaties, citizenship, oil revenues, and the fate of Blue Nile and Southern Kordofan, were not resolved, and tensions between the peace partners steadily grew and threatened a return to war immediately after the secession. The CPA laid the foundation for change and development, but other processes are needed to realize these aspirations. The question then is, after secession, has the objective of the emergence of viable states been realized? Has Sudan/South Sudan realized the CPA-stipulated goals of unity and democratic transformation?

#### **4.1.1 The Machakos Protocol, 2002**

This Protocol, signed on 20<sup>th</sup> July, 2002, was generally about the structure of governance in the era following the ceasefire. It is this document that had agreement of a pre-interim period of governance, where all institutions to support the interim governance period were stated. This Protocol is remarkably seen as the foundation of negotiations between the GoS and the SPLM/A contenders, which was thought to contain the necessary inclusions to drive a settlement to the conflict.

##### **4.1.1.1 Unity and Separation**

This Protocol provided for a pre-interim period of six months, during which institutions and mechanisms provided for in the peace agreement were to be established. At the end of the pre-

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<sup>153</sup> Ystein, H. Rolandsen. (2011), Op. cit., p.13.

interim period, there was to commence the interim period, during which institutions and mechanisms established during the pre-interim period were to operate in accordance with the arrangements and principles set out in the peace agreement. At the end of the six year interim period, the GoS and SPLM/A were to jointly organize a referendum for the people of South Sudan to confirm unity or vote for secession.

The CPA left much to be desired in the sense of contradictions contained in the document. Part A, section 1.1 of the Protocol states that “the unity of the Sudan is and shall be the priority of the parties and that it is possible to redress the grievances of the people of South Sudan and to meet their aspirations within such a framework.” Among the agreed principles in section 1.5.5 is, “design and implement the peace agreement so as to make unity of the Sudan an attractive option especially to the people of South Sudan.” However, section 3.3 states that “the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status.” It is highly surprising how a peace settlement could lump together options for unity and separation into a single agreement. As expected, the divergent objectives of the agreement were played out; Sharia in the North and possible secession of the South. Nowhere in the document was the seed of unity accurately promoted. Even the national reconciliation that was mentioned was left to the ruling party to implement. The structural flaws within the CPA, therefore, affected the implementation of this Protocol.

A significant weakness of the CPA was its dependence on the personal relations between Osman Taha and John Garang. Their leadership was crucial for the implementation of the agreement, and for the pursuit of a reform agenda in Khartoum. The death of Garang in a helicopter crash on July 30<sup>th</sup>, 2005 and the riots that followed, produced doubts about the viability of the January 09, 2005 CPA and the prospects of peace processes underway elsewhere in the country. On the surface, this is not surprising because Garang had been the leader of the SPLM/A since its founding in 1983 and for many in Sudan and abroad, he virtually personified the struggle of the South. Garang was also the unchallenged focal point during the various peace processes and in particular, during the final phase of the IGAD negotiations which were largely reduced to then First Vice President Ali Osman Taha and himself. Furthermore, Garang was intent on reforming the entire country into a ‘New Sudan’ based on equality, secularism and democracy, a focus that

made him immensely popular, not only in the South but throughout Sudan. His death complicated the implementation of this vision. The SPLM/A itself had always been a coalition and a power struggle began soon after Garang's death. The power struggles exposed old divisions in the South between those who favoured his 'New Sudan' strategy of unity and national transformation and those who preferred a 'South First' strategy whose ultimate goal was independence. Garang's successor, Salva Kiir, lacked the former's political charisma and convincing commitment to Sudanese unity. Several key figures in the peace negotiations including other political parties, women and church leaders were side lined. The SPLM/A was thus weakened on the national scene, and failed to assume a strong position in the coalition Government of National Unity (hereafter GoNU). Garang's death altered Khartoum's calculations and led the NCP to increasingly obstruct the CPA implementation. It changed decisively the political conditions that could have supported a fuller implementation of the CPA.<sup>154</sup> The position of Osman Taha, whose influence within the government was partly dependent on personal relations with Garang and the role of SPLM in national politics, was concomitantly weakened. The implementation of the CPA was hampered by the absence of its two chief architects. The process lost momentum and execution of key provisions were disputed and delayed.

However, despite the lavish praise that greeted the signing of the CPA, and the critical role ascribed to Garang in achieving that agreement, the peace process was facing a crisis before Garang's death because the agreement was not- as its defenders claimed- comprehensive.<sup>155</sup> The Machakos Protocol involved a trade-off of self-determination for the South (a popular demand of all Southerners) for the acceptance of Sharia in the North, a demand designed to give a measure of legitimacy to the NCP. And even this demand, which implied the commitment of the NCP to an Islamic vision of governance, was disingenuous since the leading elements of the ruling party had long since been displaced by the security operatives for whom Islam was only a slogan. The CPA did not invigorate a broader peace process, but instead galvanized opposition across the South and North by those who feared that the entire national pie was being divided in their absence and at their expense. The backers of the agreement routinely labelled these critics

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<sup>154</sup> Roberto, Belloni., Op. cit., pp.3-4.

<sup>155</sup> John, Young. (2005): "*John Garang's Legacy to the Peace Process, the SPLM/A,*" *Review of African Political Economy.*, p.2.

‘spoilers’ and either attempted to isolate them or looked to Garang to bring them on board a peace train, albeit a train that had already left the station. Although Garang and the SPLM/A proclaimed a ‘New Sudan’ which provided democracy and equity for all, the CPA was not a national agreement, nor was it a model that could be implemented elsewhere in the country, and even less was it a road map for democratic transformation. With most of the government and state resources divided between the parties to the CPA, there was little to give the larger majority of Sudanese outside the process.<sup>156</sup> As a result, Garang’s death and the ensuing riots had the effect of increasing tensions between all of Sudan’s disparate peoples, further undermining Garang’s notion of ‘New Sudan,’ and brought the separation of the South one step closer.

Relations between Khartoum and Juba during the interim period were rocky at best and despite assertions to the contrary, the CPA was not implemented in its entirety. Instead those in power in Khartoum and Juba decided which aspects were most important and focused on implementing them. For the South, the referendum was the top priority; in essence, the message from Juba was that almost everything was negotiable but that the referendum had to be held on time and be free of Northern meddling. The South made it clear that if there was no referendum and secession, they were willing to return to war.<sup>157</sup> Perhaps a good indicator of the SPLM/A’s waning commitment to national unity is found in the statements of Garang’s successor and South Sudan President Salva Kiir, who as early as October 2009, identified independence as the only option to elevate Southern Sudanese to first class citizens from their second class status within a united Sudan.<sup>158</sup> Kiir’s statement effectively ended any residual attempt to make unity attractive and elevated the planned January 2011 referendum on independence to the centre of political debate. Thus the SPLM/A increasingly focussed on Southern issues, relegating nationwide matters to second order priorities, while many Southern citizens came to identify the referendum on self-determination as the key clause of the CPA. While the CPA foresaw the creation of a GoNU predicated on a close partnership between the NCP and the SPLM/A, the collaboration between

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<sup>156</sup> John, Young. (2005), Op. cit., p.3.

<sup>157</sup> Jon, Temin and Woocher, Lawrenc. (2012): “*Learning from Sudan’s 2011 Referendum*,” USIP special report., pp.2-3.

<sup>158</sup> BBC News (2009) *South Sudan Leader Urges Split, 1 November*.

the two parties during the peace implementation process remained limited to the protection of each party's own interests.<sup>159</sup>

The NCP signed the CPA for a number of reasons, mostly related to its international standing: in particular, it wanted to end its pariah status and to divert international pressure to end the killings and did placements in Darfur. Yet the NCP resisted implementation because it considered it as a threat to its survival, and chose to manage the transition period without allowing for fundamental changes to take place. For the North, the prescribed nationwide elections in 2010 took on renewed importance after al-Bashir was indicted by the ICC for his alleged role in the violence in Darfur because the dominant NCP was eager to present him to the international community as being popularly elected. The North discouraged the South's interests and involvement in nationwide issues. It also had a history of instigating violence to protect its interests. But lost in this selective implementation was the CPA's larger democratic transformation agenda, which aspired to reform the exclusionary and divisive governance practices that had prevailed in Sudan for decades. In that regard, the CPA failed.<sup>160</sup> As a result of these broader political dynamics, peace implementation proceeded between (few) advances and (many) setbacks.<sup>161</sup> The acrimonious interim period made unity unattractive. In fact according to Mabior G:

Unity especially in the South was treason. The CPA offered not only hope but also a concrete model for solving conflicts and other problems in the entire country. It was a good document but was never even give a chance to be tried. Most of the provisions laid in the CPA were not fully met. Delays in implementing key portions of the CPA represents a dangerous flash point for renewed conflicts...<sup>162</sup>

#### **4.1.2 Power Sharing Protocol, 2004**

In accordance with the Machakos Protocol, this Protocol on Power Sharing, signed on 26<sup>th</sup> May, 2004 formed an integral part of the overall peace agreement. It is this protocol that established the Government of Southern Sudan as per the borders of 1/1/56, consisting of the Legislature, Executive and Judiciary of Southern Sudan. The GoSS was to act as an authority in respect of the states of Southern Sudan to act as a link with the national government and to ensure that the rights and interests of the people of Southern Sudan are safeguarded during the interim period.

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<sup>159</sup> Roberto, Belloni., Op. cit., p.4.

<sup>160</sup> Jon Temin and Woocher Lawrenc., Op. cit., pp.2-3.

<sup>161</sup> Roberto, Belloni., Op. cit., p.5.

<sup>162</sup> Mabior, G., Oral interview, January 2014, Nairobi.

#### **4.1.2.1 Government of National Unity (GoNU)**

The CPA created a complex system of power-sharing provisions aimed at addressing three major aspects at the heart of the dispute between the North and the South.<sup>163</sup> First, it created an asymmetrical federation in which the South was represented in a GoNU. Sudan's Vice-Presidency and 28% of all cabinet posts were assigned to the SPLM/A. In addition, the South was granted a considerable degree of self-government. Crucially, the CPA allowed the South to maintain the SPLA and during the CPA's interim period from 2005-2011, it comprised roughly 150,000 soldiers. This was only one of the trappings of autonomy the South enjoyed during the interim period, during which it established its own institutions, ministries and representation abroad. Judicial and legislative structures were established and reinforced in the North and South.

All institutions were supposed to be democratically legitimated, but elections were held only on April 2010, that is, one year after schedule. The CPA states that democratic elections were to be held throughout Sudan by July 2009 by the latest. This delay in the first multi-party national elections for 24-years meant that the power-sharing system created by the CPA was neither endorsed nor democratically tested for over 5-years after the signing of the peace agreement. When elections were finally held most citizens were disillusioned by the pace of implementation of the agreement and few had any doubt that the South was heading towards independence.<sup>164</sup> The elections were deeply flawed and felt short of international standards. They essentially reaffirmed the status quo, which left the NCP dominating in the North and the SPLM/A victorious almost across the board in the South. Little changed as a result, and the stage was set for the January 2011 referendum.<sup>165</sup>

Second, a ceasefire deal terminated more than two decades of armed confrontation. However, implementation of the security aspects of the agreement was hampered by a fundamental lack of trust between the parties, as will be discussed in section 4.1.6 (Security Arrangements Protocol) of this chapter. Third, the CPA created a system of revenue sharing between the North and South. However, implementation of oil wealth-sharing was hindered by both political tensions

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<sup>163</sup> Roberto, Belloni., *Op. cit.*, p.5.

<sup>164</sup> *Ibid.*

<sup>165</sup> Jon Temin and Woocher Lawrenc., *Op. cit.*, p.3.



and lack of administrative capacity, as will be discussed in section 4.1.3 (Wealth Sharing Protocol) of this chapter. In particular, the absence of any reliable data about Sudan's oil production made it impossible to determine precisely how to divide oil-generated wealth and was one of the key reasons for the South's temporary withdrawal in protest from the power-sharing agreement on October 11<sup>th</sup>, 2007. The NCP saw the full implementation of the CPA as a threat against its existence. The reason for this was that an entirely implemented CPA would create a more democratic and transparent Sudan, something that would challenge the power-base that they enjoyed at the moment. In the South, alleged corruption further hampered the creation of a framework for calculating and sharing oil revenues. According to Oyiet N:

There was conflict in the sharing of powers. Powers were allocated more to NCP in the North and SPLM/A in the South. The seats given to parties at various levels in Part V of the Protocol was a problem. These parties used their offices to promote their political agenda, NCP in the North and SPLM/A in the South. That is why Salva Kiir recalled the SPLM/A ministers from Khartoum. The SPLM/A used the powers given to them in the South at the detriment of NCP and vice versa. Power struggles and intrigues affected the implementation of this Protocol. Power-Sharing undermined the notion of making unity attractive....<sup>166</sup>

In a region with only about 60-kilometres of tarmac road at the time of secession, the government has faced serious although surmountable challenges to implement programmes that fulfil the socio-economic expectations of the people. Tensions between communities are aggravated by pervasive tribalism and perceptions of state bias, the virtual absence of state roads and infrastructure, widespread food insecurity, land disputes and limited access to justice. The concern is that the SPLM has been focusing mainly on CPA benchmarks, while failing on the core functions of governance. Indeed, according to Gatluak, K:

The current stalemate in South Sudan is due to tribalism, corruption and poor service delivery. We fought the north so that we could get justice, development and sustainable peace. We don't trust these leaders at all, they have forgotten those who fought alongside them. Our expectations have been cut short. In fact we were more united before independence than now. If we are given an option of going back to the north, we would go forthwith. We would rather be marginalized by Arabs and not by fellow Africans, it's a shame...<sup>167</sup>

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<sup>166</sup> Oyiet, N., Oral Interview, March 2015, Nairobi.

<sup>167</sup> Gatluak, K., Oral Interview, January 2014, Nairobi.

#### 4.1.2.2 The North-South Border

The CPA resolved that the boundaries of South Sudan are those in existence at the time of independence, 1/1/1956 and called for the border to be demarcated within six months. Unfortunately, no source is available that establishes authoritatively the exact location of those boundaries on that date, and since 2005 the question of delineating and demarcating the frontier has opened simmering disputes between groups living along the border.<sup>168</sup> Establishing the exact borderline was considered important not only for the purpose of confirming the respective territories of the North and South, but also for implementing other provisions of the CPA such as a population census, voter registration, and the redeployment of the SAF and SPLA.<sup>169</sup> The CPA pre-interim period, January-July 2005, was the time frame originally envisaged for border determination.

On September 2005, in accordance with the CPA, a Technical Border Committee (hereafter TBC) was established by Presidential Decree 29 and supported by national and international experts. However, the TBC only started functioning in mid-2006, one year later than foreseen in the CPA.<sup>170</sup> The TBC was unable to carry out its tasks owing to procedural disputes and accusations of political interference. To ensure that the TBC would remain ineffective during the first five years of the interim period, the two partners withheld funding and disbursements, leaving the TBC helpless to carry out its mandate. By the end of 2010, the committee had not yet finished its work, with five sectors causing delay; three of them involve Southern Kordofan State, White Nile State and Upper Nile State.

Drawing of an internationally agreed boundary line has not been put in place by the two states. Oil-related and pasture-related disputes are entangled with unresolved border delineation disputes that the TBC tried to address since its inception. Most of these areas contain oil reserves and agricultural lands, particularly in the Upper Nile and Northern Bahr el-Ghazal States. The area straddling across the border between Southern Darfur and Western Bahr el-Ghazal is also

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<sup>168</sup> ICG (2010b) *Sudan: Defining the North–South Border*, Africa Briefing No. 75, Juba/Khartoum/Nairobi/Brussels, 2 September, available online at: <http://www.crisisgroup.org>

<sup>169</sup> Abdalbasit, Saeed., Op. cit., pp.16-17.

<sup>170</sup> Ibid.

rich in copper deposits and other resources. The pastoralists worry about the possibility that access to land might be hindered by a new border regime.

#### **4.1.2.3 Human Rights Commission**

Various rights were acknowledged in the Protocol, and it was agreed to establish a Human Rights Commission. Such formulae typically appear in all modern constitutions, irrespective of whether the state respects them or not. While human rights abuses in the South since the signing of the agreement appear to have declined and the placement of the international monitors on the ground, in territories under the control of GoS and SPLM/A such abuses continued without interruption throughout the period of negotiations. It seems the IGAD's mediators feared human rights were a manifold that would complicate negotiations, and reached a tacit understanding to avoid the subject. This was made easier by the absence of civil society organizations from the negotiations. As a result, the possibility of ordinary Sudanese to bring human rights abuses to light and to hold guilty parties accountable was not considered. IGAD's handover of a monopoly of power to the GoS and SPLM/A did not create an environment conducive to the protection of human rights in any parts of the country.<sup>171</sup> This Protocol failed to consider how the rights it so readily granted can be implemented. No details were provided on the mandate of the Human Rights Commission, when it was to be established, who were to serve on it and whether there was to be any role for civil society.<sup>172</sup>

#### **4.1.2.4 Reconciliation and National Healing**

The CPA resolved that a comprehensive process of national reconciliation and healing throughout the country be initiated as part of the peace building process. However, a key problem, not just in relation to these latest events, but also in South Sudan's history, is that of impunity, particularly for those at the most senior levels. According to David Deng, 'if we go over the past nine years, we've seen a litany of abuses, serious human rights violations, violations of international humanitarian law, some of the worst crimes imaginable.'<sup>173</sup> However, despite all that, no one in South Sudan has ever been held accountable for anything. Among

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<sup>171</sup> John, Young. (2005), Op. cit., pp.4-5.

<sup>172</sup> Ibid., p.10.

<sup>173</sup> David, Deng. (2014): "*South Sudan: Is peace possible? Voices from civil society,*" Rift Valley Institute Meeting Report, Nairobi Forum, pp.2-3.

unaccounted crimes are specific, highly charged incidents. Apart from these cases, there have been other very serious crimes: ethnic cleansing and crimes against humanity. In Jonglei state, thousands of people were killed, people abducted, and property looted. Despite acknowledgement from President Salva Kiir that senior politicians were involved, none of these crimes have been answered for. This was demonstrative of the fact that this question of impunity is very deeply embedded. Although impunity was not invented during the CPA period, the process did nothing to discourage it.<sup>174</sup>

The overall militarization and use of extreme violence in the settlement of disputes that emerged during the 1990s have not abated since the end of the war with the North. Those moments of violence during the liberation period, though often extremely destructive, to ethnic relations, were often patched up or swept under the rug in the interest of keeping the eyes on the common goal, but they were never sufficiently resolved and far too many communities were left wanting for justice.<sup>175</sup> No one was held accountable for the 1991 massacres against the Dinka of Jonglei state, and there was no recompense to the affected citizens. This set the precedent for the kind of politics whereby political ambition of individual or small groups of individuals translates into efforts to gain power by force. It is this history that has the whole country standing on the edge, as the risks of a repeat of 1991 are written all over the current row and are all too scary to fathom.<sup>176</sup>

When the current mayhem started, many people were reminded of these historical incidents, and some individuals, especially soldiers who had escaped or survived them, reacted with pain of those memories in mind and heart as their moral compass. The revolt and subsequent clashes resulted in hundreds of deaths of both soldiers and civilians, due to avenging of past actions, as some of these soldiers read the situation as being yet another chapter in Riek Machar's ethnic-based struggle for power. As a matter of fact, many soldiers fought nearly completely without commanding officers to direct them or prevent them from going overboard, as many of them were caught off-guard by the fighting and simply ran into the fight in a random manner. That is

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<sup>174</sup> David, Deng., Op. cit., p.3.

<sup>175</sup> Jok, Madut. (2014): "South Sudan and the Prospect for Peace amidst Political Wrangling," Policy Brief, The Sudd Institute. p.4.

<sup>176</sup> Ibid., p.5.

what led to the excesses that are now being reported as state-sponsored killings.<sup>177</sup> Instead, the post-CPA and independence periods highlight the need to assimilate the jumble of factions and interests on the Southern side, and throw South Sudan's many smaller and more localized conflicts into sharp relief. In the post-independent years, political factors driving the Nuer to violence have included perceived marginalization by and power struggles with Dinka, frustration about disarmament and lack of security from Murle raids (as will be discussed in section 4.1.6-Security Arrangements Protocol of this chapter), and violence committed by SPLM/A actors over the years before and since the CPA for which there has been little accountability.<sup>178</sup>

In the CPA itself, there is nothing in terms of real accountability for past human rights violations, and in the processes that have taken place since, rebels have been offered blanket amnesty, military positions, all sorts of rewards, but nothing in terms of accountability. Unfortunately, the CPA provided no functional framework of accountability for past crimes or non-violent and non-militaristic resolution of current disputes, and impunity has been widespread, contributing to ongoing cycles of violence that certainly led to the current (early 2014) crisis. At the same time, disarmament efforts following the CPA were carried out quite violently although ultimately fairly effectively, in Northern Jonglei, which diminished cattle raiding between the Dinka and the Nuer as well as between various Nuer clans in Jonglei and Upper Nile (as will be discussed in details in section 4.1.6-Security Arrangements Protocol of this chapter). However, it did not contribute to increased trust between the Nuer and GoSS or the SPLA.<sup>179</sup>

#### **4.1.3 Wealth Sharing Protocol, 2004**

This Protocol, signed on 7<sup>th</sup> January, 2004 consists of the guiding principles in respect of an equitable sharing of common wealth. The parties agreed that the wealth of Sudan was to be shared equitably to enable each level of government to discharge its legal and constitutional responsibilities and duties. It provided for a fair and equitable division of government assets. It also stipulated that revenue sharing was to reflect a commitment to devolution of power and decentralization of decision making in regard to development, service delivery and governance.

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<sup>177</sup> Ibid.

<sup>178</sup> Rachel, Gordon., Op. cit., pp.12-16.

<sup>179</sup> Ibid., p.27.

#### 4.1.3.1 Oil Revenue Sharing

The CPA created a system of revenue sharing between the North and the South. Needless to say, oil revenue is a matter of major interest to both sides, but particularly to the South, which gets 98% of its budget from this source. The CPA prescribed that 2% of all revenue would remain in those areas where the crude is extracted, while the rest would be divided equally between the North and the South. Although the oil-wealth sharing agreement led to the flow of about \$10billion from the North to South, thus contributing decisively to keeping the peace, its implementation was hindered by both political tensions and lack of administrative capacity.<sup>180</sup> In particular, as discussed earlier on power-sharing, the absence of any reliable data about Sudan's oil production made it impossible to determine precisely how to divide the oil-generated wealth.<sup>181</sup>

Institutional delays and lack of transparency over revenues, along with disagreements over demarcation in oil-rich regions, generated considerable distrust between the two sides. Since 2005, inconsistencies in reporting between oil companies and the ministry of Finance and the National Economy raised doubts about the willingness of the North to share fairly oil revenues with the South.<sup>182</sup> The government in Juba also speculated about the existence of the off-the-record deals between oil companies and Khartoum aimed at lowering the official amount of oil extraction. This was one of the key reasons for the South's temporary withdrawal from the power-sharing arrangements in 2007.

Although land and water conflicts affect a considerable number of both Northern and Southern Sudanese citizens, oil-sharing has remained the crucial issue in the relationship between the North and the South and has remained contentious to date. Majority of the oil fields, generating about 85% of the total oil production, is found in the South, which, however, is a land-locked region still dependent on the pipeline running from Southern Sudan to Port Sudan for export. Indeed according to Garang B:

The CPA never addressed the issue of oil comprehensively. Nothing other than oil has been the bone of contention ever since, some mechanisms should have been put

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<sup>180</sup> Roberto, Belloni., Op. cit., p.5.

<sup>181</sup> Global Witness. (2009): *Fuelling Mistrust: The Need for Transparency in Sudan's oil Industry*; London, Global Witness, September.

<sup>182</sup> Global Witness (2009), Op. cit.

in place to avoid future conflicts. Oil is the greatest threat to peace; the north wants to control it thus refused the CPA. For future peace, we need to understand the value of peace, resource allocation and marginalization. There should be a new oil sharing deal, that is comprehensive and should include a dispute resolution mechanism...<sup>183</sup>

Nnimmo, Bassey in his analysis on Sudan and oil politics said “we may squabble and bicker under the cover of ethnic or regional differences but beneath the surface, the struggle is over who controls the massive oil gas resources and revenues of the land.”<sup>184</sup> This statement puts in perspective the topical argument that the Sudan/South Sudan power struggle is over who controls what and to a very large extent shed some light on how this perceived oil struggle has rendered the CPA impotent and portends doom for the future of the two states. Many scholars, like Luke A. Patey in the discussions on Sudan, oil and politics, affirmed that 80% of Sudan’s oil resources reside in the Southern part of Sudan, meaning with the secession, the jumbo petrodollar earnings of the government in Khartoum from oil boom might vanish, thus, crippling the economy and starving the-oil-sucking political elites in the North for the fact that oil contributes a substantial sum of 60% of national revenue in Sudan.<sup>185</sup> This is unbearable threat the North sought to fight with its last blood.

The parties also agreed that the basis for an agreed and definitive framework for the management of the development of the petroleum sector during the interim period, should include, inter alia, empowerment of the appropriate levels of government to develop and manage the various stages of oil production. Section 5.4 of the Protocol states that an oil revenue stabilization account was to be established from government oil net revenue derived from actual export sales above an agreed benchmark price. To ensure transparency and fairness both in regard to the allocation of nationally collected funds to the states/regions and the GoSS, a Fiscal and Financial Allocation and Monitoring Commission (hereafter FFAMC) was to be established. But in the South, alleged corruption further hampered the creation of a framework for calculating and sharing oil-revenues. Other corruption allegations frequently unsettled the GoSS and several ministers lost their positions. The low level of modernization and the strength of primordial attachments in

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<sup>183</sup> Garang, B., Oral Interview, December 2013, Nairobi.

<sup>184</sup> Bassey, Nnimmo. (2011): ‘Sudan and Oil Politics: A nation Split by Oil,’ Business Africa.

<sup>185</sup> Luke, A. Patey. (2010): “*Oil politics: Splitting Sudan,*” the Africa.org. Alternate-Monthly Magazine of the Institute of Security Studies Issue 6, April/May.

Southern Sudan figured in an acceptance of corruption, but it was the failure of the SPLM/A leadership to inculcate among its members an ethos of serving the people that made it hard to control. Under Garang, and later Kiir, it became a wealth-generating project. Indeed, despite their responsibilities, the SPLM/A leaders and even soldiers were not discouraged from pursuing private business activities and many did so in South Sudan, Kenya and Uganda, while others bought property in the UK and Australia, where they sent their families.<sup>186</sup> Weak institutional capacity has led to allegedly widespread theft and corruption by government officials.

Indeed according to Gatluak, K:

The government opposition to institutionalization has continued, accountability has remained weak, genuine local governments have never developed. Salva Kiir has accepted corruption as a means to stop dissident. They have refused to disclose revenues from the extractive industries. Some of our people have been displaced due to oil related activities and have never been compensated to date. Lack of openness, transparency and effective governance has been a challenge for our young country...<sup>187</sup>

#### **4.1.3.2 Land**

Land alienation was a major problem in Nuba Mountains, Jonglei and other states. The CPA proposed the establishment of a National Land Commission and Southern Sudan Land Commission. The National Land Commission and the Southern Sudan Land Commission were to cooperate and coordinate their activities so as to use their resources efficiently. In Nuba Mountains, large amount of land had been transferred by the state to private interests-principally large Khartoum-based traders-and this caused much anger. Partly because of delays in agreeing on and implementing a new national constitution, and partly because of limited legal infrastructure and resources for enforcing whatever legal agreements may be made, land and grazing rights remain murky. The CPA called for land commissions to be formed to deal with such problems, but they never were.<sup>188</sup>

#### **4.1.3.3 Water Resources**

Another area of concern was international treaties, foremost being the Nile River treaties of 1929 and 1959, which effectively divided the waters of the river between Egypt and Sudan.

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<sup>186</sup> John, Young. (2012), Op. cit., p.72.

<sup>187</sup> Gatluak,K., Oral Interview, January 2014, Nairobi.

<sup>188</sup> John, Young. (2012), Op. cit., p.249.



Appreciating that this arrangement was not sustainable, a number of Western countries began supporting the Nile River Basin Initiative (hereafter NBI) to build cooperative relations between the Nile basin countries. This initiative was not very successful, as was made clear after failed negotiations on May 2010, when Ethiopia, Uganda, Tanzania, Rwanda and Kenya signed a new agreement without Egypt or Sudan and tension steadily grew between the upstream and downstream countries. Into that mix will go South Sudan which, it is assumed will make common cause with the upstream countries given its close attachment to Uganda and Kenya.

One feature of the CPA that surprises many people is that the Wealth Sharing Arrangement that addressed, inter alia, oil, land and other natural resources did not address water resources. Instead, water resources were addressed under the Power Sharing Agreement and subsequently the Interim Constitution, granted the national Government exclusive jurisdiction over the “Nile Water Commission, the management of the Nile Waters, trans-boundary waters and disputes arising from the management of interstate waters between Northern states and any dispute between Northern and Southern states.” Both instruments devolved to the government of Southern Sudan the authority to coordinate Southern Sudan services and establish minimum standards in a number of areas, including water provision and waste management.

The government of Southern Sudan was also given jurisdiction over natural resources and forestry, as well as over disputes arising from the management of interstate waters within South Sudan. Thus, jurisdiction over the Nile and other trans-boundary waters was placed exclusively in the hands of national government in Khartoum, while water resources management was devolved to the government of South Sudan. Given the size of the Nile Basin in South Sudan and the fact that most of the projects to augment the flow of the Nile would take place there, it may seem counterintuitive that the SPLM/A did not push for a more active role in Nile water management during the interim period, as it did with oil, land and other natural resources.<sup>189</sup> However, in the post-referendum negotiations the SPLM did press for a share of the Nile. This has not proven easy to resolve, since with the loss of oil, Sudan’s development plans depend to a

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<sup>189</sup> Salman M.A. Salman. (2011): “*The new state of South Sudan and the hydro-politics of the Nile Basin,*” *Water International.*, 36:2, 154-166., pp.7-8.

considerable degree on irrigated agriculture, which makes the NCP less willing to relinquish any of its water share under the 1959 agreement.

#### **4.1.4 The Resolution of the Abyei Conflict, 2004**

Abyei, together with the Nuba Mountains and Funj Region, were like microcosms of the whole Sudan, and they crystallized two completely opposite visions for the country. For the SPLM the fate of the Three Areas-and of Darfur and the East for that matter- was the rationale for participating in the negotiations: the movement, and Garang in particular, wanted to transform the country. Striking a deal for the South only, at the expense of other marginalized peoples and of their allies in the Three Areas, was out of the question. Peace depended on justice. Only through devolving power and resources to the marginalized areas would Sudan be able to achieve peace and avoid fragmentation. Khartoum, on the other hand saw the Three Areas as part of the Northern Sudan, and their view was that the Machakos Protocol confirmed this through its reference to the 1956 borders.<sup>190</sup> This Protocol was signed on 26<sup>th</sup> May, 2004.

##### **4.1.4.1 Historical Background**

Abyei is an area of 10,500 square kilometres and is located at the poorly defined border between Sudan and South Sudan. According to WHO, Abyei is inhabited by approximately 100,000 people, but this number varies due to IDPs and seasonal migration. These inhabitants can be divided into two overall ethnic groups: One being the permanent residents from the nine Ngok-Dinka chiefdoms and the other being the Arab nomads from Misseriya tribe who migrate to Abyei during the dry season to find grazing land for their cattle. Abyei consists of rich pastureland and depending on the border demarcation, the oil fields of Diffra, Heglig, Garaad, Toma, Taiyib, Bamboo West and Bamboo.<sup>191</sup>

Under the Turkish rule (1820-55) the Humr branch of the Misseriya tribe raided Abyei on a regular basis to capture people from the Ngok-Dinka tribe in order to sell them as slaves in the North.<sup>192</sup> This period constitute the beginning of a deep-rooted mistrust between the two tribes.

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<sup>190</sup> Hilde F. Johnson. (2011): *Waging Peace in Sudan: The Inside Story of the Negotiations That Ended Africa's Longest Civil War*; Sussex Academic Press, Ontario-Canada, Eastbourne, Portland-Oregon., p.118.

<sup>191</sup> Kristian, Skovsted., Op. cit., p.13.

<sup>192</sup> Craze, J. (2011): "Creating Facts on the Ground: Conflicts Dynamism in Abyei," Small Arms Survey., p.9.

One hundred years after the end of the Turkish rule, the first civil war broke out in 1955. The Misseriya were in great number recruited into government-backed militias and in response many Ngok-Dinka joined the greater Dinka tribe in the Anyanya rebel movement said to be the predecessor of SPLM. In 1965 in the town of Babanusa seventy two civilians from Ngok-Dinka were burned alive by the Misseriya militia. This incident is today still grieved in Ngok-Dinka communities and serves as a reason for continued struggle.

As already discussed in chapter two of this study, the Addis Ababa Agreement of 1972 brought the first civil war to an end. The Agreement guaranteed border areas, which were geographically and culturally Southern, the right to conduct referendum on whether or not to join the newly established Southern Region.<sup>193</sup> Abyei was also promised this opportunity to great fear within the Misseriya who foresaw that if Abyei joined the Southern Region it would lead to a permanent loss of access to the essential Abyei grazing grounds. All in all, the Addis Ababa Agreement increased the feeling of marginalization within the Misseriya tribe and the necessity of taking matters into their own hands and not relying on Khartoum became more and more obvious. This led the Misseriya to form the Murahaliin militias in 1977 and attack Abyei before the second civil war officially broke out. These attacks were different from the previous raids because they directly targeted settlements and civilians and because the overall goal was not, as previously, to steal cattle, but to ensure access to Abyei and ultimately make Abyei exclusively an area for the Misseriya.<sup>194</sup>

As discussed earlier, in 1983 the second civil war broke out and one of the main reasons was that Khartoum deliberately worked against the preparation process of the promised referendum. After the outbreak of the second civil war, the Misseriya attacks on Ngok-Dinka intensified. The attacks followed the same genocidal structure as previously, but were now directly funded by the regime in Khartoum. This gave Khartoum leverage of control over the militias, which meant that the militias were used to, inter alia, eliminate the Ngok-Dinka who interfered with the oil exploitation. In 1989, in a successful attempt to create an even stronger control over the Misseriya militias, Omar al-Bashir, Sudan's new President, made the Murahaliin into a formal

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<sup>193</sup>Craze, J., Op. cit., p.11.

<sup>194</sup> Ibid.

military entity called the People Defence Forces. With this new control, the attacks intensified during the 1990s with coordinated attacks on Ngok-Dinka cattle and settlements to permanently push Ngok-Dinka from Abyei.<sup>195</sup>

Within the Ngok-Dinka communities the feeling of alienation and anger increased because the proposed referendum did not materialize. This feeling of marginalization, combined with the ongoing Misseriya raids, resulted in the formation of Anyanya II rebel movement. When the CPA was finally signed in 2005 and Abyei once again promised its right to self-determination through referendum, the skepticism and distrust were paramount. The deliberate use of demographic warfare by Khartoum, combined with genocidal raids by the Misseriya, is not forgotten and is today still affecting the process of resettlement.<sup>196</sup>

#### **4.1.4.2 The CPA and the current deadlock**

The CPA was signed on January 2005 and was meant to cover the period from 2005 to 2011 until the referendum for Southern secession could be conducted. Already then it was obvious that the final solution to Abyei would have to be given extra attention and solved separately from the Southern Sudan referendum. Abyei was deemed too intractable and delicate to be dealt with together with the rest of Southern Sudan and the main reason why the SPLM accepted this exclusion was that they did not want to give the NCP any possibility of hindering the overall goal of Southern secession. By that, the SPLM accepted that Abyei had to be dealt with in a post-secession reality and therefore to some extent outside of the CPA legal frame work.<sup>197</sup>

##### **4.1.4.2.1 Abyei Referendum**

The CPA created a special “Abyei Protocol” that granted Abyei status of a transitional area. This guaranteed Abyei the right to conduct a separate referendum simultaneously with the rest of Southern Sudan. Article 1.3 of the Protocol states that “simultaneously with the referendum for Southern Sudan, the residents of Abyei will cast a separate ballot. The proposition voted on in the separate ballot will present the residents of Abyei, irrespective of results of the Southern

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<sup>195</sup> Kristian, Skovsted., Op. cit., p.15.

<sup>196</sup> Douglas, H. Johnson. (2010): “*When Boundaries Become Borders-The Impact of Boundary making in Southern Sudan’s Frontier Zones,*” Rift-Valley Institute., p.36.

<sup>197</sup> Ibid., p.30.

referendum, the chance to determine whether Abyei retains its special administrative status in the North or be part of Bahr-el Ghazal.” Abyei Referendum Commission was also to be established to conduct the referendum. But as SPLM/A feared, this never materialized, and in particular, the government in Khartoum was reluctant to permit the referendum to take place. As a result, the Abyei Area Referendum Commission, prescribed by the CPA, was never set up and the status of Abyei has remained undecided.

#### **4.1.4.1.2 Abyei Boundaries**

The boundaries of the Abyei area has been a bone of contention and the decision on the status of this area was not included in the CPA, instead it was decided through the Protocol on the Resolution of the Abyei Conflict that the demarcation of the Abyei border should be resolved by Abyei Boundaries Commission (hereafter ABC). Article 5.0 of the Protocol states that “in determination of Geographic Boundaries, there shall be established by the Presidency, Abyei Boundaries Commission, composed equally by representatives of the NCP, SPLM and international experts, to define and demarcate the area of the nine Ngok-Dinka chiefdoms transferred to Kordofan in 1905.” The ABC’s demarcation had to be finished before a referendum could be conducted and according to the ABC’s mandate its decision was final and binding.<sup>198</sup> The ABC delivered its verdict to the Sudanese Presidency on July 14<sup>th</sup>, 2005. The report found that the border should run through the desert area of Goz, which divides the two ethnic groups making Goz an area of shared rights.<sup>199</sup>

However, both NCP and Misseriya immediately rejected this decision. This contravenes the CPA, which stated that the decision of the ABC was final and binding. The refusal of the NCP to accept ABC findings was highlighted by the SPLM/A several times as one of the most central factors that slowed the implementation of the CPA. From the perspective of NCP, it most likely had to do with the ABC’s inclusion of the strategic oil fields of Heglig and Diffra in the Abyei area and, furthermore, because a rejection would prolong, for NCP, economically lucrative status quo. This rejection increased tension in Abyei and on June 2008, SAF together with Misseriya

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<sup>198</sup> Douglas, H. Johnson. (2011): “*The Road Back from Abyei*,” Retrieved January 9 from: <http://freesouthsudanmediacenter.com/2011/01/21/the-road-back-from-abyei-bydouglas-h-johnson/>

<sup>199</sup> Craze, J., Op. cit., p.14.

militia invaded Abyei. Through the clashes with the SPLA, many households were destroyed and 60, 000 Ngok-Dinka fled the area. Nyamai R, remarked to me that:

The GoS is sitting on Abyei because of oil. Recently, al-Bashir said that the people in Abyei can as well move to Southern Sudan but Abyei will never be part of South Sudan, not even an inch. The GoS claim the land, while the GoSS claim both land and people. They sent Misseriya to Abyei to claim apart and Misseriya would start killing. The CPA is to blame, issue of Abyei was not looked into critically in the CPA. Some issues were not spelt out clearly, otherwise, they would not be fighting till today...<sup>200</sup>

Following this violent outbreak, an Abyei Roadmap was drafted to address the crisis. The roadmap did address the security issues of Abyei, but refrained from addressing issues central to Ngok-Dinka, which was included in the Abyei Protocol. For example, the roadmap stated that the Presidency (NCP) should appoint the Abyei Administration, which according to section 2.2 of the Protocol should have been done through an election. The appointment of an administration has been one of the unconditional requirements from the NCP and following the roadmap it was now exclusively up to NCP to appoint it. This gave NCP a tool to prolong the process.<sup>201</sup>

On the border demarcation dispute, the roadmap referred the case to the Permanent Court of Arbitration (hereafter PCA). With Ngok-Dinka feeling that they had no other option than to accept yet another compromise, they and SPLM agreed to take the dispute to The Hague. The PCA ruling reduced Abyei to only constitute the area of permanent settlements of the Ngok-Dinka and therefore, contrary to ABC's demarcation, Abyei no longer encompassed the oil fields of the North East. Ngok-Dinka accepted this loss of territory and SPLM the loss of oil fields, but the Misseriya rejected the ruling due to claims of not being properly included in the consultations and due to the fact that this demarcation, which solemnly focused on Ngok-Dinka settlements, would exclude them from participating in the upcoming referendum. Both claims are valid.

First, the CPA negotiations and the ABC consultations to a large extent excluded the Misseriya through the argument that they were represented through NCP. Second, if Misseriya was excluded from the referendum Abyei would most likely become part of Southern Sudan, which the Misseriya feared would lead to a permanent loss of access.<sup>202</sup>

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<sup>200</sup> Nyamai, R., Oral Interview, December 2013, Nairobi.

<sup>201</sup> Kristian, Skovsted., *Op. cit.*, p.17.

<sup>202</sup> Craze, J., *Op. cit.*, p.11.

This NCP manoeuvre was done well aware of the fact that it directly opposed the intention of the CPA. According to the CPA, the Misseriya would independently of the referendum results, retain their traditional rights to graze cattle and move across Abyei. This was confirmed in the PCA ruling, which should leave no doubt as to whether the traditional rights of the Misseriya to Abyei would still be validated and respected even after an eventual incorporation of Abyei into Southern Sudan. As mentioned above, the PCA ruling purposely focused on defining Abyei as the permanent settlements of Ngok-Dinka and therefore automatically excluding Misseriya from the referendum. This was intended to empower Ngok-Dinka with the right to self-determination,<sup>203</sup> but at the same time still guaranteeing the continued seasonal access to Abyei for the Misseriya. NCP misinformed Misseriya about the content of the PCA ruling letting them believe that their traditional rights would be nullified. Consequently, a Misseriya congress announced that any attempt to implement PCA demarcation would result in violence.<sup>204</sup> Once again NCP deliberately prolonged status quo, this time by using the Misseriya tribe as their procrastination tool. NCP was and still is benefiting from the status quo, inter alia, oil exploitation. And this was just another way to prolong it.

This gives some explanation to the recurring violent breakouts. The failure to hold the Abyei referendum and demands that the Misseriya be permitted to participate in any such exercise led to the worst skirmishes since 2008 invasion, between SAF and the SPLA and their allied armed groups in the first half of 2011, which ended with a full scale invasion of the territory by SAF on June 20. Although intimately linked to the Northern insurgents, the Southern SPLM/A formally stayed out of the conflict and continued negotiating with the NCP over the outstanding post-referendum issues.<sup>205</sup> The reasons behind this continued use of violence by the Misseriya and SAF adds to the suspicion that the NCP, through depopulation tactics, is trying to improve facts on the ground and achieve a better bargaining position. The resort to armed conflict to decide issues that should have been resolved in Naivasha pointed to the weaknesses of the CPA and raised the danger the parties to the agreement would return to a full-fledged war.<sup>206</sup>

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<sup>203</sup> Craze, J., Op. cit., p.11.

<sup>204</sup> Ibid., p.16.

<sup>205</sup> John, Young. (2012), Op. cit., p.227.

<sup>206</sup> Ibid.

#### **4.1.4.1.3 Abyei Citizenship**

The task to determine a permanent status for Abyei through a referendum in connection with the North-South border divide has brought new issues of Abyei citizenship determination to the fore. The question of who are bona fide residents of Abyei and who should participate in the proposed referendum have been fiercely debated between the local Ngok-Dinka and Misseriya ethnic groups and regionally between the governments in Khartoum and Juba. Voter eligibility has served as one of the main bones of contention and the fact that it is difficult to obtain reliable estimations of eligible voters only emphasizes the relevance of this dynamic when trying to understand the Misseriya attempt to become eligible. Permanent residency and/or ethnic belonging to indigenous communities were the two criteria for eligibility in the Southern Sudan referendum, and since Misseriya would not be able to argue that they are an indigenous community of the South, they would be able to settle and become permanent residents, and through that become eligible to vote in Abyei.<sup>207</sup> The dynamic of citizenship and voter eligibility is here evident.

#### **4.1.4.3 Motivating factors behind NCP/SPLM Intransigence**

As the case is now, it appears the answer to the fate of Sudan/South Sudan is hanging on the Abyei question. For the geostrategic importance of Abyei, what was never envisaged as an issue reflective in the struggle over land, water, grazing and movement between the Ngok-Dinka and Misseriya ethnic group became very important and finally the balance upon which every argument between the divide results. In this case, the CPA had no clue in resolving the new issues of social categorization, ethnic struggles, rights and access to land, water and grazing rights. The obvious issue of contestation the CPA was concerned with was majorly how to share oil revenue from that region between the residents and a determination of status for Abyei either as part of the North or South should secession occur. In each of these CPA provisions, implementation has not taken effect, a permanent status for Abyei is still unachievable and the CPA stipulated resources to the locals are much in doubt if they ever get to the people.

For GoSS there are mainly three reasons why Abyei at some point must become part of Southern Sudan. The first one is economic and connected to the oil in Abyei. South Sudan's economy is

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<sup>207</sup> Douglas, H. Johnson. (2010), Op. cit., p.39.



driven solely by foreign aid and oil revenue, and the potential of getting exclusive access to the Abyei oil fields would have a stabilizing effect on this one-track economy. The negation of this is that if Abyei stays as part of Sudan the state budget of Southern Sudan will suffer and a potential dangerous situation could develop.

The second reason is that during both the first and second civil war the Ngok-Dinka in Abyei fought on the same side as the rest of the contemporary Southern Sudan and suffered equally, if not more, than other areas of the South.<sup>208</sup> The fact that Abyei is still part of Sudan is a continued source of anger within the wider Dinka community, an anger that will not disappear. More importantly, many Ngok-Dinka are still today represented in the inner circles of SPLM, the ruling party in Southern Sudan. This means that Abyei represents more than just the oil revenue and the guilt of comrades still living in occupied territory. Abyei has a huge symbolic value and is a personal matter to many of the high-ranking government and military officials,<sup>209</sup> which together with the above mentioned reasons make it difficult to imagine Southern Sudan ever accepting a solution where Abyei stays as part of Sudan. It is in this connection, that a potential permanent loss of Abyei might result in internal instability, which makes Abyei a central tool in Southern Sudan's security politics.<sup>210</sup>

To the GoS, during the CPA negotiations, NCP was determined to exclude Abyei from Southern Sudan referendum. The result of the referendum was beforehand given, which made the exclusion of Abyei crucial. For the NCP the permanent loss of Abyei would potentially have devastating consequences. The oil fields in Abyei are currently under the control of SAF. The Sudanese economy is almost exclusively relying on oil revenue and a potential loss of Abyei's share would increase the pressure on already unstable economy.<sup>211</sup> As was seen on September/October 2013 uprising in the bigger cities, including Khartoum, oil and gas prices are extremely sensitive and the gas prices will logically become even more difficult to control if the overall oil extraction decreases. This clearly outlines the link between continued access to Abyei oil and regime security.

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<sup>208</sup> Craze, J., Op. cit., p.12.

<sup>209</sup> Ibid.

<sup>210</sup> Al Jazeera, 1. (2013): *Unilateral Referendum Poses a New Obstacle in Abyei*; Al Jazeera Centre For Studies, p.4.

<sup>211</sup> Ahmed, E. (2009): *The Comprehensive Peace Agreement and the Dynamic of Post-Conflict Political Partnership in Sudan*; *Africa Spectrum Vol. 44, no.3.*, p.140.

Regime security is also the central theme when it comes to the historical alliance with the Misseriya tribe. The Misseriya has historically been allied to the regime in Khartoum, which is a situation NCP would do almost anything to preserve. Recently, Omar al-Bashir guaranteed his personal engagement in the Misseriya's fight for acknowledgement of its right to Abyei and has underlined that under no circumstances will he give up on Abyei.<sup>212</sup> From a regime security point of view, a situation where Abyei would join Southern Sudan and Misseriya would lose access to Abyei would most likely result in a breakdown of their alliance. This could potentially turn the entire Misseriya tribe into enemies of NCP, resulting in a potential darfurisation of South Kordofan and surrounding states. To lose Abyei and Misseriya together with the above mentioned conflicts, might tip the balance of NCP's ability to control its proxy militias and the total collapse of the regime would in this scenario not be an unthinkable outcome.

In sum, the conflict in Abyei is unfolding at both national and local levels. At the national level, the conflict has been going on for so long that to pursue a win-loss resolution seems inadequate. There is too much at stake and too much prestige involved for any of the two states to accept a permanent loss. If a resolution should ever satisfy both states, it would have to establish the possibility of both Sudan and Southern Sudan to present the outcome as being an advantage for their country respectively. Even though this is the simple logic of political compromises, a scenario where this will actually be the case seems far. A referendum produces a clear winner and a clear loser, and it is obvious that none of the four parties can afford losing. To use referendum as the primary conflict resolution tool in Abyei will most likely have a negative effect on the creation of long-term peace and societal reconciliation because the conduct of a referendum will make either Sudan/South Sudan a clear cut loser and possibly also either Misseriya or Ngok-Dinka. A referendum outcome, in itself, is too black and white, which makes its application in entrenched conflicts difficult. As is evident from the analysis, Abyei is too important for the two Sudans for any of them to allow a permanent loss. This makes it likely that some kind of retaliation in Abyei or elsewhere on behalf of the losing party will prolong the conflict after a referendum. In that case, the referendum will have been counterproductive to the

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<sup>212</sup> BBC. (2013): *Sudan's Omar al-Bashir pledges to Resolve Abyei Dispute*. BBC. Retrieved January 10 from: <http://www.bbc.co.uk/news/world-africa-24707806>.

goal of long-term peace and societal reconciliation. As stated earlier, as the case is now, it appears the answer to the fate of Sudan/South Sudan is hanging on the Abyei question.

#### **4.1.5 Resolution of the Conflict in Southern Kordofan and Blue Nile States, 2004**

The ‘Protocol for the resolution of the conflict in Southern Kordofan and Blue Nile States’ was signed on 26<sup>th</sup> May, 2004. It granted special economic, security and political arrangements to those war affected areas that had fought alongside the SPLM/A but were not under the jurisdiction of the SPLM (during the war the area called by the SPLM/A Southern Sudan had included the Two Areas, to form the so-called New Sudan, but according to the official maps of the country the areas were above the North/South border). The Protocol recognized the strategic importance of those areas for both parties, both economically and militarily. Peace in the Two Areas was essential for the tenure of the CPA, thus the parties committed to reaching a just, fair and Comprehensive Peace Agreement to end the war in Southern Kordofan/Nuba Mountains and Blue Mountains States.

##### **4.1.5.1 Historical Background**

Southern Kordofan State, redrawn on the basis of the CPA, has an estimated area of 144,000 km<sup>2</sup>. 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 surface water that is wasted. During the rest of the year, they are dry. The plateau of Nuba Mountains is 48,000 km<sup>2</sup>, with the majority of Nuba Mountain population in the central districts of Northern Jabal and Southern Jabal.

According to the 2010 census, the total population of Southern Kordofan State is estimated at 2million people in 300,000 households, residing in 17 localities and 40 administrative units. They are mainly rural settled cultivators and agro-pastoral communities and transhumant agro-pastoralists who also practise smallholder dry farming. The population is from diverse ethnic and tribal origins. Almost 370,000 people (11% of the land), is estimated to be under the control of SPLA-Nuba after 20-years of conflict with the SAF.

Blue Nile State, whose capital is Damazin town, is located in the mid-Southeast of Sudan, bordering Ethiopia to the east, Upper Nile State to the west, and Sinnar State to the north. It has a rich savanna climate with annual rainfall ranging from 400mm in the north to 1,000 mm in the south. Administratively, Blue Nile State is divided into five localities: Damazin, Roseries, Bau, Gissan and Kurmuk. The total land area is 45, 844 km<sup>2</sup>. The total population is 750,000, and 75% of the population is rural. Socio-cultural identity is tied to tribal and ethnic networks.

#### **4.1.5.2 State Elections**

With the completion of the national elections and referendum, the main requirements of the CPA outstanding were the elections in Southern Kordofan, the popular consultations of Blue Nile and Southern Kordofan, and resolution of the problem of Abyei. However, the Southern Kordofan elections were postponed from April 2010 to May 2011 because the SPLM did not accept the census on which elections were to be based, and the popular consultations could only be started after elections had brought to power accountable state governments that could oversee the process and appoint commissions to conduct them.

Under the Protocol, the NCP acquired 55% of the seats and the SPLM 45%; the leaders of the SPLM in the states held the governorship for the first two years of the six-year CPA stipulated interim period and the NCP held them for the next two years, after which elections were supposed to be held. Although these arrangements suggest a genuine sharing of power, the reality was very different. In Southern Kordofan and Blue Nile, as elsewhere in Northern Sudan, the states had been completely reconstructed by the NCP. Civil servants were screened to ensure their loyalty to the NCP, governors closely followed orders of NCP headquarters, and crucially, the security services served as mere instruments of the ruling party.

In the Southern and underdeveloped part of Blue Nile, the SPLA continued to maintain an unofficial presence, bolstered by a large SPLA contingent just inside the Upper Nile border. But the situation was far from ideal and many cadres in both states became disillusioned, particularly when they realized that the SPLM under Salva Kiir had turned away from the New Sudan vision and was dedicated to achieving Southern independence. SPLA Brigadier General Isaac, the deputy commander of the JIU for Southern Kordofan, summed up the sentiments of many Nuba

when he said, ‘The South took what they wanted from the CPA and left the Nuba Mountains...The SPLA are part of the Nuba Mountains and everyone is disappointed in the CPA. The only thing we got from the CPA was the popular consultations.’<sup>213</sup>

Since early June 2011 South Kordofan has been in a state of war. The May 2011 legislative and executive elections, measured by their success in maintaining peace and achieving democratic transformation, were a failure. Contested polls and the breakdown in relations between the NCP, SPLM and SPLM-N contributed significantly to the outbreak of the conflict across the state and the consequent humanitarian catastrophe. The conduct of the election was contentious even before the campaign and polling began and the Southern Kordofan SPLM refused to accept the election results, which the sitting governor Ahmed Haroun won. The disputed gubernatorial elections triggered off a conflict that engulfed larger parts of the state, giving rise to atrocities that, according to the office of the UN High Commission for Human Rights (hereafter OHCHR), may amount to war crimes against humanity.

Domestic and international election observers deemed the vote a success, but the present study, based on the analysis of reports from the three election observation organizations that covered the election, found significant deficiencies in the observer’s approach. The mandate of election observers is to help build confidence in the electoral process. In South Kordofan, this was not achieved. Critical lessons of Sudan’s past electoral history were overlooked, and in a rush to judgment, international observers prematurely endorsed the contentious poll.<sup>214</sup> Tensions increased further when SAF announced that all SPLA forces in the North must be disarmed. This led to Southern Kordofan leader Abdel Aziz al-Hilu to launch an insurgency, which by the end of peace process had SAF largely in control of the state’s lowlands and the SPLA in control of most of the Nuba Mountains.

The April 2010 elections in the Blue Nile were a bitterly fought affair, particularly for the governorship. There was a lot of politicking behind the ultimate election of Malik Agar Eyre, a contest where he was repeatedly reported as being behind his competitor, only to be declared a

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<sup>213</sup> John, Young. (2012), Op. cit., pp.229-230.

<sup>214</sup> Aly, Verjee. (2011): “*Disputed Votes, Deficient Observation; The 2011 election in South Kordofan, Sudan.*” Rift Valley Institute, African Elections Project, Research Paper., pp.3-4.

victor. It seems likely that the SPLM leadership in Juba threatened to abort the entire election if Malik Agar was denied the governorship, and the NCP felt compelled to bend. The NCP in turn picked up two thirds of the legislative seats.

#### **4.1.5.3 Popular Consultations**

Southern Kordofan and Blue Nile were granted a popular consultation, vaguely defined in the CPA as a democratic right and mechanism to ascertain the views of the people on the comprehensive agreement reached. Article 3.0 of the Protocol states that:

*Popular Consultation is a democratic right and mechanism to ascertain the views of the people of Southern Kordofan/Nuba Mountains and Blue Nile States on the comprehensive agreement reached by GoS and SPLM. Accordingly, this comprehensive agreement shall be subjected to the will of the people of the two States through their representative democratically elected legislatures, And once this Agreement is endorsed by the people through the legislature of any of the two States as meeting their aspirations, then the agreement shall become the final settlement of the political conflict in that state.*

Upon completion of the elections, attention increasingly turned to popular consultations, with the SPLM attempting to push the envelope, arguing for self-determination, and the NCP leadership wanting to reduce the exercise to little more than a symbolic gesture. Indeed, according to a NCP participant in the Naivasha negotiations, the commitment to popular consensus was only made to save the face of some members of the SPLM, that proposals for a wide ranging popular consultation were being exploited by the SPLM and their American allies and if pressed, would become a flash point.<sup>215</sup> Accordingly, the popular consultations were not meant to provide a blue-print for future constitutional arrangements in Northern Sudan even though the Protocol specifically said that they would serve as a model for solving the problems throughout the country. For them, popular consultations were only designed to encourage dialogue and produce some minor reforms and certainly not any notion of confederalism as earlier proposed by Malik Agar Eyre.<sup>216</sup>

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<sup>215</sup> Aly, Verjee., Op. cit., pp.230-231.

<sup>216</sup> John, Young. (2012), Op. cit., pp.230-231.

There appeared to be a poor understanding at the grassroots in the two states of what popular consultation entailed. In a series of focus group interviews, the National Democratic Institute found that the term (popular consultation) was still largely unfamiliar to the general population of those two states. Most participants said either that they had not heard of popular consultation or they did not understand what it means.<sup>217</sup> Some people in the two states, including community and traditional leaders, believed that popular consultation involved a choice of joining the South, remaining with the North, or becoming independent of both. While there is little clarity on what popular consultation is, the process did not grant the two states this degree of latitude.<sup>218</sup> It seems probable that political leaders were reluctant to tell their constituents what they are and are not entitled to through popular consultations because of the lack of clarity on the issue and for fear of being blamed for the absence of an Abyei-like referendum for the two states. Indeed there was initial disappointment at the grassroots that a referendum was not part of popular consultation.<sup>219</sup>

In the Blue Nile, the process started on September 2010 with a massive popular participation that was asking for the reforms that did not materialize through the CPA and a degree of autonomy from Khartoum. The Blue Nile Parliamentary Commission for Popular Consultation was established on October 2010 in accordance with section 3.2 of the Protocol. The commission specifically identified four broad themes to be considered in the public hearings: constitutional, administrative, political and economic. However, the hearings did not live up to the expectations. There were three principal and related problems. First, instead of reasoned discussion on the four designated themes of the popular consultations, the contributions were largely reduced to very brief statements in support of autonomy or federalism, the respective positions of the SPLM and NCP. Second, the mobilization by the dominant parties of their constituencies, which broadly followed tribal lines, threatened to exacerbate tribal tensions within the state. Third, the orchestration of the process by the SPLM and NCP undermined the efforts to ascertain the views of the people of the Blue Nile and also effectively marginalized the other principal parties and civil society in the state and created an undemocratic environment.<sup>220</sup>

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<sup>217</sup> Jon, Temin. (2009): “*Six important issues for Sudan and its future*,” USIP Peace Briefing, Washington, DC., pp.2-3.

<sup>218</sup> Jon, Temin., Op. cit., pp.2-3.

<sup>219</sup> VOA News, 24 January 2011.

<sup>220</sup> John, Young. (2012), Op. cit., p.235.

From the start of the process of popular consultation in Blue Nile, senior SPLM and others proclaimed their commitment to self-determination and said they intended to use the popular consultation to achieve this end, even if it involved a return to war which many expected. Governor Malik Eyre meanwhile was widely quoted as saying that he expected to put on his military uniform after the Southern referendum, which meant that he expected a return to war. The NCP stressed that the Protocol did not grant the state the right to self-determination, there was no provision for a referendum, and their intention was to work within the law and examine the topics listed in the Protocol. However, it soon became clear that not only was the state NCP divided internally on its approach to popular consultations, but the state and the central party were also divided.

Immediately upon completion of the hearings, controversy developed over what to do with the results. Since the NCP and SPLM treated the hearings like a referendum, with winners and losers at each session, they now pressed for the results to be translated into votes for and against autonomy and federalism, but this raised the political temperature and brought the tabulation process to a virtual halt. Indeed, at the end of the peace process, the parties were still locked in argument and plans for thematic hearings of civil society groups and political parties were in doubt. In the event, most of the opposition party representatives concluded that by using popular consultation hearings to press for their preferred systems of governance, the SPLM and NCP undermined the entire exercise. They were highly sceptical of the proposed thematic hearings because they feared they would also be held captive by the preoccupation of the ruling parties with systems of governance.

The consultations in Blue Nile were not successful and had not been completed when the peace process ended. Consequently, the national government passed legislation to extend the process by six months.<sup>221</sup> As a result of late elections, the conduct of crucial process of popular consultations in the two areas was pushed towards the end of the interim period, missing its function of correcting the implementation of the CPA in the mid-interim period. As such, the process conflicted with the political tension between the North and South around the referendum time and Khartoum was afraid that the states would demand the right to self-determination as

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<sup>221</sup> John, Young. (2012), Op. cit., p.226.



well. Thus in the aftermath of the CPA not only democracy, but also peace, was at stake in Sudan.<sup>222</sup> Indeed N. Oyiet remarked to me that:

Popular consultation did not take place and the Southern Kordofan and Blue Nile States have remained untouched to date. The South became concerned with Abyei, and the popular consultation was overshadowed. Political circumstances could not permit popular consultations. The conflict has taken another dimension since the Southern secession. A post-CPA arrangement should take shape....<sup>223</sup>

On January 24, 2011 Voice of America (hereafter VOA) News reported Jason Gluck of the United States Institute for Peace (hereafter USIP), an expert on Sudan popular consultations, as saying that much of the demands for popular consultations on critical issues in Southern Kordofan, Blue Nile, Darfur and in other states, as well, really boil down to power sharing, wealth sharing, and a greater degree of genuine autonomy for the states themselves.<sup>224</sup> In this case, the CPA could not have been able to predict the reaction of the government in Khartoum to these demands with potential implications for disintegration of Sudan. Obviously, no mechanism in the CPA with its inclusion of right for self-determination had the capacity to resolve the new or unforeseen issues of greater push for autonomy by these states especially in Southern Kordofan, Blue Nile and elsewhere in Sudan.<sup>225</sup>

General dissatisfaction with the implementation of the CPA was also expressed by other parties and civil society in the state. Most said they received no benefits from the rich resources of their state, which were controlled by the riverain Arabs in the state and Khartoum. They complained at the lack of development, the poor state of the roads, the failure of the government to provide services, and the influx of large numbers of SAF soldiers. And cutting across party lines, almost everyone complained at the limited benefits they received from the Rosseires Dam, even though it provided electricity for a sizeable portion of Northern Sudan.<sup>226</sup>

It became apparent that virtually no one was happy with the implementation of the CPA and most supporters of both parties called for development. Sometimes the speakers said that by

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<sup>222</sup> Benedetta De Alessi., Op. cit., p.8.

<sup>223</sup> N. Oyiet., Oral interview, March.2015, Nairobi

<sup>224</sup> Wilfred, S. Iyekolo., Op. cit., p.65.

<sup>225</sup> Ibid.

<sup>226</sup> John, Young. (2012), Op. cit., p.233.

development they were calling for more water outlets, schools, clinics and roads for the state. Indeed, it was impossible to find anyone in the state irrespective of their party affiliation who did not complain at the state's lack of development, and in particular the fact that it produced a sizeable portion of Sudan's electricity, but suffered power shortages. A non-functioning National Reconstruction and Development Fund, alongside other funds defined by the Agreement, affected the possibility of the socio-economic development of these war affected areas. The lack of improvement in the lives of the people in Southern Blue Nile State, which had been severely affected by the conflict, was particularly striking during the interim period. Moreover, due to the high level of mistrust between the parties both armies, SAF and SPLA, maintained their troops outside the JIUs, revealing the strategic importance of the two areas to the North and South during the transition. Garang B., reported to me that:

Roads, schools, hospitals are in a sorry state in the two areas. The CPA was only an agreement between Garang and al-Bashir; independence was its greatest achievement, apart from the referendum, it was not a success. Resolution of contested areas is not yet achieved. Southern Kordofan and Blue Nile Protocols were not implemented. There is a crisis in the two regions, the root causes of problems were not addressed by the CPA, contentious issues were not clearly spelt out...<sup>227</sup>

#### **4.1.5.4 Impediments to Popular Consultations**

The security situation in the Blue Nile State was not conducive to a positive outcome from the popular consultations. The SAF contingent in the state probably numbered in the range of 15,000-20,000, considerably above the stipulations of the Security Arrangements Protocol which reduced it to the pre-war level of two battalions or about 1600 soldiers, and a further 3,000 in JIUs. They were supported by an undetermined number of Popular Defence Force soldiers, who were used both as a fighting force and during the war as a means to press NCP religious practices on the people of the state, who frequently followed unorthodox approaches to Islam. The SPLM commissioner of Kumruk, Stephen Amot, complained that, 'The basic problem in Kumruk is the armed nomad militias...the SPLA militias turned over their weapons to the SPLA according to the CPA, but the NCP affiliated militias did not follow suit; to make matters worse, he had no authority over the local police who could control these nomads.'<sup>228</sup>

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<sup>227</sup> Garang, B., Oral interview, Dec.2013, Nairobi.

<sup>228</sup> John, Young. (2012), Op. cit., pp.233-234.

Power struggles between the SPLM and NCP undermined the intent of the popular consultation hearings and effectively turned the hearings into a referendum, and as a result their mentors kept records of the statements at the hearings in favour of autonomy and federalism, and it would appear that those hearings viewed them in the same way. It is reported that the official civic education was conducted by day, and by night the SPLM and NCP provided their own education. Such actions undermined the overall goal and spirit of the popular consultations to gauge citizen's views.<sup>229</sup>

Another problem with the popular consultation hearings was that they pitted indigenous tribes—the largely SPLM-supporting Berta, Hamaj, Ingessina, Wataweet, Dawala, Gumuz, Barum, Uduk, and Jumjum, with the Upper Nile migrant tribes of the Maban, Dinka and Shilluk against the NCP-supporting tribes that migrated to the area, the Arab Jallien, Shaggiya, Kamatir, Ashraf, Rufaa, Kenana, Falata and the Darfur tribes, Bagara, Zhagawa, Massalit and Fur. As a result, there was a clear correlation between a person's tribe and the support they gave to either federalism or autonomy, and this contributed to tense environment of hearings and in a few cases led to violence. These tensions between the tribes were exacerbated by the popular consultation hearings. The SPLM and its supporters among the indigenous tribes viewed the consultations as a means to advance their interests in the state. The counterpoint to that was the fear it produced among the non-indigenous tribes. As a result, members of the non-indigenous tribes contended that if autonomy was accepted as the goal of the state, they would be forced to leave, and the NCP played up this fear in its propaganda.<sup>230</sup>

While the civic education for the hearings was effective in informing people about where hearings were to be held, who was eligible to participate, time limits and other technical concerns, it did not explain the objectives of the popular consultation and the broader issues of governance and security that underpinned it. To ensure genuine and informed participation in the hearings, there would have had to be a sustained public campaign to politically educate the people of the state on the CPA and the Blue Nile/Southern Kordofan Protocol, but that was not

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<sup>229</sup> John, Young. (2012), *Op. cit.*, pp.236-237.

<sup>230</sup> *Ibid.*, pp.237-239.

done. There was a need for communicating the underlying purpose of popular consultations and creating an ongoing dialogue about the substantive topics at the issues.

In conclusion, Through the CPA, Sudan achieved peace but the plan of realizing democracy in the country in the interim period depended on the commitment of the two parties to it. The SPLM/A leadership focused on the reconstruction of Southern Sudan and the building of new autonomous executive and military institutions in the region devastated by the war. The focus went on the conservation of peace i.e. the ceasefire with Khartoum, in order to reach the referendum and the independence of South Sudan. The implementation of the CPA, led by the signatories of the CPA, GoS and SPLM/A, became a technical and selective matter while the space for political debate was limited. The parties were maintaining their cooperation at the minimum level and in several occasions the agreement was about to collapse.<sup>231</sup> The CPA institutions were weakened by the tense relationship between the parties and often made ineffectual. Crucial steps for the transformation of the country, such as the National Population Census and the General Elections, were implemented only as necessary steps to achieve the end of the interim period through a peaceful referendum. The CPA brought a fragile no-war-no-peace situation that the parties had to carefully maintain.

The implementation of the Protocol of the two areas, on top of its structural weakness, was affected by the overall implementation of the CPA and the tense relations between Juba and Khartoum. The weakness of the overall project of a new united Sudan enshrined in the CPA became evident. Rather than a model for the development of the new democratic Sudan, the implementation of the Protocol of the two areas revealed the weakness of the New Sudan vision in the CPA and among its signatories. The sense of unfair treatment felt in Naivasha was reinforced during the interim period vis-à-vis the implementation of the peace deal that was lining towards the realization of the referendum against the democratization of the whole country. In sum, the desired political reforms was part of a process that began with the popular consultations but that had not produced the desired outcomes and that stood to end with the completion of the CPA on July 9.<sup>232</sup>

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<sup>231</sup> Benedetta De Alessi., *Op. cit.*, pp.6-7.

<sup>232</sup> John, Young. (2012), *Op. cit.*, pp.280-281.

#### **4.1.6 Security Arrangements Protocol, 2003**

After the parties agreed on a number of Protocols, the problem of security arrangement arose. There was need to redeploy the armed forces of both the South and North. SPLM/A demanded that there should be equal treatment of forces from both sides and that all the forces should be paid from the national budget. The GoS on the other hand opposed this demand on grounds that they could not fund a rebel group that had been fighting them. To resolve the issue on security, the Protocol on Security Arrangement was signed at Naivasha on September 25<sup>th</sup>, 2003.

##### **4.1.6.1 Ceasefire, the Joint Integrated Units (JIUs) and Other Armed Groups (OAGs)**

The attitudes, interests and mistrust among the belligerents affected the implementation of this Protocol. Relations were shaky between the SPLA and the JIUs in Southern Sudan. Many minor skirmishes and two major violations of the ceasefire were reported in Malakal during the period 2006, 2009 and 2010. Hence, the SAF and SPLA contingents deployed to the JIUs were not functioning as integrated units. They were coexisting instead of being jointly deployed. The majority of SAF affiliated militia forces were recruited mainly from the Greater Upper Nile Region. This made Malakal town a dangerous place that contributed to undermining the security in post-CPA in Southern Sudan.<sup>233</sup>

The SSDF and other militia groups that were excluded from negotiations of the CPA remained a serious threat to sustaining the peace agreement. Armed militias or proxy forces that existed during the war were expected, under the CPA, to integrate into SAF or the SPLA or demobilize. Most of them did so with a notable reluctance. The Juba Declaration of January 2006 on unity and integration of the SPLA and SSDF averted the immediate danger that faced survival of the CPA.<sup>234</sup> This integration was not totally achieved as certain factions chose not to integrate and tensions persisted where finger-pointing and mutual accusations were frequent between the NCP and the SPLM whenever there was a security breach.

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<sup>233</sup> Samson, Samwel Wassara. (2011): *Security Challenges in Post-Liberation South Sudan*, in 'State Building and Development in South Sudan;' African Research and Resource Forum, Nairobi., pp.49-59.

<sup>234</sup> John, Young. (2006): "*The South Sudan Defense Forces in the wake of the Juba Declaration*," Geneva, Small Arms Survey, Graduate Institute of International Studies., pp.13-24.

Some militarised groups other than the SSDF participated in the civil war, but were neither allied to the SAF nor the SPLA. Examples of such groups were the Geish Mabor or the White Army and the Gelweng Youth Cattle Defence Groups. These were groups of armed civilians, mostly the youth that were organised by community leaders into village defence forces for protection of communal property. They were private armies that paid their allegiances to influential individuals and groups in communities or to the SPLA during the war. Geish Mabor and the Gelweng were not part of the OAGs provided for in the CPA. It was difficult for the GoSS to deal with these armed groups. The presence of different militia groups and other militarised civilians created social instability after the signature of the CPA. Most of the insecurity in South Sudan was blamed on militia groups that were not aligned with the SPLA.

The referendum and actual independence of South Sudan proceeded peacefully, but even before the South formally achieved independence both governments were actively supporting one another's dissidents, and these conflicts intensified in the post-9 July.<sup>235</sup> The two countries, Sudan and South Sudan, are involved in a proxy war, in which the regime in Khartoum provides weapons to rebels in Southern Sudan and the regime in Juba provides weapons to rebels in Sudan.<sup>236</sup> In 2010, George Athor, a prominent general within the SPLM/A, defected after losing an election to become Governor of Jonglei, and founded a rebel group called South Sudan Democratic Movement/Army (hereafter SSDM/A)/Cobra Forces and started to fight against the regime in Juba. In late 2011, Athor was killed in battle but other elements of the SSDM/A continued the rebellion. Simultaneously, David Yau Yau launched another rebellion in Jonglei. This uprising was also connected to the elections because Yau Yau lost the vote for a parliamentary seat. The rebellion is ongoing as of 2013.<sup>237</sup>

Another rebellion started in Unity State, in 2011, when an insurgency group called South Sudan Liberation Movement/Army (hereafter SSLM/A) took up weapons against the South Sudanese government. The leader of this group was Peter Gadet, a Nuer who had fought on the behalf of the regime in Khartoum against the SPLM/A for a large part of the North-South war. This

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<sup>235</sup> John, Young. (2012), Op. cit., p.353.

<sup>236</sup> Johan, Brosche'. (2014): "*Masters of War-The Role of Elites in Sudan's Communal Conflicts*," PhD Dissertation, Department of Peace and Conflict Research, Uppsala University, Sweden., p.112.

<sup>237</sup> Sudan Tribune. (2013a.) "*David Yauyau / David Yau Yau*." Available at :<http://www.sudantribune.com/spip.php?mot1247> (Accessed 2013-11-11).

fighting primarily took place in the first half of 2011 and killed between 300 and 600 people. The rebellion persisted, however, because other factions did not merge with the ruling party, but continued the insurgency. This contravenes section 7 of the Protocol which states that no armed group allied to either party would be allowed to operate outside the two forces. Those who had the desire and qualify were to be incorporated into the organized forces of either party, while the rest were to be reintegrated into the civil service and civil society institutions. Equally, in section 1.12 of the Ceasefire Arrangements, the parties committed themselves that all forces, troops, under their respective command and forces allied and affiliated to them at all levels and rank and file were to fully ceasefire and stop hostilities.

All of these groups were supported by the Sudanese government. Most importantly, the majority of the weapons used by the three insurgency groups came from Khartoum.<sup>238</sup> The prime reason for the Sudanese regime supporting these groups was that the relation between the two countries was far from harmonious. Instead, issues such as demarcation of the border between the countries, oil, and the support of rebels in each other's countries constituted fundamental issues that were left unresolved. At the end of March 2012, the hostilities between the two nations escalated into warfare over a disputed oil rich area-Heglig/Panthou. The fighting was intense and caused hundreds of fatalities.<sup>239</sup> More than half of all reported deaths in all of South Sudan between January 2011 and September 2012 were in Jonglei. The violence did not abate between 2012 and late 2013; if anything, it got worse, with major attacks in Murle, Dinka and Nuer territories resulting in hundreds, if not thousands, of deaths and tens of thousands of heads of cattle being stolen in 2013 alone, even before the violence of December 2013. South Sudanese leaders and international actors, such as the UN, NGOs, and donors, have long discussed post-conflict recovery and reconciliation in the state, but recovery and reconciliation suggest a shared vision and purpose to ending hostilities that have not yet come into existence between the warring groups.

Peter Kuol Chon, took over the SSDM/A and signed a peace agreement with GoSS on February 2012 after Athor's death, but its forces have yet to be integrated into the SPLA. Furthermore,

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<sup>238</sup> Small Arms Survey (2013a). *Weapons and Ammunition of Returning SSLA forces, Mayom, Unity State, May 2013*. Geneva: Small Arms Survey.

<sup>239</sup> Small Arms Survey (2012c). *Weapons Identified in Heglig/Panthou and Bentiu*. Geneva: Small Arms Survey.

hostile SSDM/A remnants refused to accept the agreement and were continuing their activities as recently as summer 2013.<sup>240</sup> David Yau Yau signed a ceasefire agreement with GoSS on January 2014 that promised a cessation of hostilities and neutrality in the wider national conflict, although it did not clarify any further steps regarding demobilization or integration of the Cobra forces. Efforts by the SPLA to disarm the White Army militias, following the CPA, were disastrous, leading to violent and drawn-out fighting in which many of the youths lost their cattle herds and their lives.<sup>241</sup>

While there are other recognized parties active in South Sudanese politics today, it remains true that the SPLM is absolutely dominant, and that most of the leadership of the party comprises active or former SPLA commanders. GoSS and donors noted as a priority at the time of independence a reduction in size and demilitarization of the SPLA, but progress has been slow. There is an overabundance of high-level officers as well as regular soldiers, and a dearth of alternative employment available to any of them, as well as a continuing need to integrate armed factions previously opposed to the SPLM.<sup>242</sup>

In sum, the CPA terminated the Second Sudanese civil war that had been engaging for 22 years and gave extensive autonomy to Southern Sudan. It did not, however, end violent conflicts in the region. Instead, violent communal conflicts have devastated most areas of Southern Sudan since the end of the civil war. The Greater Upper Nile Region (constituting the states of Jonglei, Unity and Upper Nile) has been particularly shattered by such conflicts. In fact, the conflict between the Murle and Lou Nuer, taking place in Jonglei, is one of the world's most violent communal conflicts and has killed more than 3,000 people since 2006.<sup>243</sup>

#### **4.1.6.2 Demobilization, Disarmament and Re-Integration (DDR)**

The objective of this process was to contribute to creating an enabling environment to human security and to support post-peace agreement social stabilization across the Sudan, particularly war affected areas. The CPA states that the SAF and SPLA should be the only legal armed

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<sup>240</sup> Rachel, Gordon., Op. cit., p.17.

<sup>241</sup> Ibid., p.18.

<sup>242</sup> Small Arms Survey (2013c) *'Pendulum Swings: The Rise and Fall of Insurgent Militias in South Sudan,'* HSBA Issue Brief. Geneva: Small Arms Survey.

<sup>243</sup> Johan, Brosche', Op. cit., p.111.



forces. This type of one sided demobilization, where the SPLA remains as the sole armed force, has created insecurity among ex-combatants from other groups.

The conflicts in the Greater Upper Nile have been active for a total of sixteen years with the Lou Nuer-Murle conflict being active for five years, making it the most long lasting. The Uppsala Conflict Data Program (hereafter UCDP) estimates that these communal conflicts in total have caused about 4,400 fatalities during the period of 2005-2012. Lou Nuer-Murle conflict is the most violent, that has killed more than 3,200 people. Once the CPA was signed, the SPLM/A sought to monopolize the use of force in South Sudan by establishing itself as the only group with arms. This was a strategy to get rid of potential threats from armed opponents. The fragility of the regime meant that not all dangers could be given the same amount of attention. Instead, the most imminent threats needed to be dealt with first. The Lou Nuer community in Jonglei was perceived as the largest risk to the SPLM/A at the time because the group was heavily armed and hostile toward the Dinka who dominated the new administration. In addition, the White Army, originally as a group that fought against the SPLM/A for a larger portion of the war, consisted of Lou Nuer fighters. The history of this group, in combination with its strong aversion to the regime in Juba, made it a likely proxy for Khartoum to use if it wanted to increase disarray in South Sudan. Weakening the power of the Lou Nuer was, therefore, important in order to reduce the Sudanese government's opportunities to threaten the security of South Sudan.

To counter this imminent threat, the government targeted the Lou Nuer community in the first disarmament process after South Sudan gained autonomy. This operation started at the end of 2005 and was heavily resisted by the Lou Nuer. The group argued that without weapons they would be vulnerable to attacks from the Murle, but the government proceeded with the disarmament anyway. This led to heavy fighting between the Lou Nuer and the regime that caused at least 1600 casualties. Later, disarmament processes were also carried out against the Murle community. The timing of disarmament helps to explain the Murle-Lou Nuer conflict, which is by far the most violent communal conflict in recent years (not only in the Greater Upper Nile and Sudan/South Sudan), but in the entire world.<sup>244</sup> The government's behaviour through partial decisions over disarmament, was decisive in this conflict. Before the disarmament started,

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<sup>244</sup> Johan, Brosche', Op. cit., p.128.

the Lou Nuer had warned that it would result in such attacks (because the Murle remained armed) and when this did happen, it created anger towards the Murle as well as against the government. The contempt towards the regime was aggravated because the Lou Nuer did not perceive the disarmament to be carried out on behalf of the communities, but as a revenge campaign targeting them because of the role they played in the North-South war. Moreover, during the disarmament process the SPLM/A carried out gross atrocities, including the burning of villages, killing of civilians and looting of cattle.<sup>245</sup>

After disarming the Lou Nuer, the SPLM/A was supposed to proceed to collect weapons from the Murle community. However, the attempts to disarm this community were futile, leaving the Murle well-armed. This is attributed to the government showing no extensive interest in this endeavour. Many Nuer perceived this to be a strategy by the SPLM/A to weaken the opponents of the government. It has been suggested that the regime wants the Nuer and Murle to fight each other because such a conflict would strengthen the position of the Dinka in the region. The Lou Nuer began the search of weapons to take revenge. They succeeded to rearm by looting arms from SAF and started to attack the Murle on December 2008. Vicious circles of communal conflicts between these two communities have since plagued Jonglei.<sup>246</sup> The most violent episode in the conflict took place on December 2011 and January 2012. In this attack, an estimated 8,000 strong Lou Nuer force attacked the Murle town of Pibor and killed approximately 1,000 Murle. The government was less inclined to prevent this attack because it targeted the Murle community. If the government were aware that a similar attack on a Dinka town was imminent, the response would likely have been completely different. In addition, proper investigations of the incidents have not been prioritized by the Juba regime. The lack of proper exploration to find the perpetrators has meant that they have enjoyed selective impunity. Infuriated by this attack, and the lack of suitable interference by the government, the Murle took revenge on the Lou Nuer, which led the vicious circles of violence in Jonglei to continue.<sup>247</sup>

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<sup>245</sup> Johan, Brosche', Op. cit., p.129.

<sup>246</sup> Ibid., p.130.

<sup>247</sup> Small Arms Survey (2012b). *My Neighbour, My Enemy: Inter-tribal Violence in Jonglei*. Geneva: Small Arms Survey.

In contemporary Greater Upper Nile, no efficient justice system exists. Likewise, the limits between customary and government laws are blurred, leading to a hybrid and changeable local justice system. In addition, the police force lacks resources and access to several areas. Hence, the citizens have been deprived of their security, which has led to a deep distrust between communities and security providers. Thus, several structural problems contribute to flaws in the justice system in the Greater Upper Nile, but this lack of rule of law does not affect all communities equally. Instead, perpetrators from some communities receive harsher punishments than perpetrators from other communities. A Lou-Nuer, Gatkuoth, G., remarked to me:

We are no more secure, unified, or productive than it was during the war period. President Salva Kiir has provoked us to war. We had no intention to fight the Government but Salva Kiir lost touch and launched a forced disarmament. How then do we defend our cattle and kids from Murle because the government has failed to provide security after disarmament? There is no alternative but violence. We shall not submit and we have no choice but to hit back by all means within our power in defence of our people, our future and freedom. We shall accept disarmament if others are disarmed too. The CPA has been poorly implemented, we thought independence would usher in a new era but this has not been the case....<sup>248</sup>

Discriminatory imprisonments are also used to uphold patronage systems based on ethnicity. The justice system is, therefore, non-neutral and favours the communities with the closest ties to the government. This augments the risk for communal conflicts in primarily two ways. First, the disincentive among potential perpetrators drops when they can count on immunity from the government and do not need to fear punishment. Second, the communities suffering from the impunity other groups enjoy will be more prone to use violence because they do not see any legal opportunities to obtain restitution.<sup>249</sup>

Communal affiliation has also been decisive in terms of which community should be punished for being in possession of weapons. To decrease the number of small arms among Greater Upper Nile's communities, disarmament processes take place regularly. Intuitively, this might seem a sound policy in a region awash with weapons. In the Greater Upper Nile, however, it has contributed to violent communal conflicts rather than preventing them. As seen earlier, the prime reason for this is that the disarmament has been uneven. Certain communities have been

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<sup>248</sup> Gatkuoth, G., Oral Interview, February 2014, Nairobi.

<sup>249</sup> Johan, Brosche', Op. cit., pp.127-128.

punished by the government because they hold large quantities of weapons whereas other communities have not. Thus, the government's position vis-à-vis different communities is manifested in disarmament, which has always been a biased endeavour in South Sudan.

In Jonglei, the preferential position of the Dinka is evident because no substantial attempts to disarm the region's Bor Dinka or Twic Dinka communities have been carried out. Such disarmament would likely cause a major political backlash. This is in sharp contrast to the other two main ethnic groups in Jonglei-the Nuer and Murle, who have been targeted for disarmament on several occasions. A prevailing perception among non-Dinka groups is that disarmament is part of a Dinka strategy to first take their weapons and then take their land.<sup>250</sup>

Worth noting is that in this region, an absence of functional, legitimate, local governing institutions prevail. The CPA established the GoSS, which established the Interim National Constitution of the Republic of South Sudan. Both of these documents emphasized decentralization of power and local democracy, but such structures hardly exist in reality and the opportunities for local establishments to influence rules, or to control their executions, have been severely restricted. This distances decision making from local perspectives. Important decisions are, as a consequence, regularly taken at a level where there is little opportunity for actors with an extensive local knowledge to influence them. For example, chiefs in Jonglei have been prevented from influencing the disarmament process in the region.<sup>251</sup>

In the Greater Upper Nile, the government bias makes sanctions less proportional and thereby increases the risk of violent communal conflicts. If sanctions are proportional, decisions about punishment depend on the severity and context of a violation. In this region, community affiliation, rather than the circumstances and gravity of the crime committed, has generally been the deciding factor for sanctions. This has led to discriminatory punishments where perpetrators from certain communities enjoy impunity. It has also contributed to uneven disarmament where

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<sup>250</sup> Johan, Brosche', Op. cit., p.127.

<sup>251</sup> Ibid., p.132.

the weapons from some groups are taken while other communities are allowed to keep their arms.<sup>252</sup>

All these security issues related to disarmament are aggravated because of lack of police in the area. The CPA is not very explicit on the police issue creating an ambiguous situation both for the local and national police.<sup>253</sup> A central part of demobilization process is the targeting of child soldiers and at the end of June 2006, 1013 child soldiers had been demobilized from SPLA and other groups in the South. However, in the North, authorities had not advanced significantly in the preparation of a child demobilization program for child soldiers associated with SAF.<sup>254</sup>

The GoSS has yet to establish law and order or functional security and justice sectors. It has, instead, focused on numerous other complex issues: the transition of the SPLM/A from decades of being a rebel movement with a strict militaristic hierarchy simultaneously rife with internal discord and fragmentation to being the primary governing party and standing national army in a nascent democracy; the absorption of numerous dissident leaders and stakeholders into a big tent of national political unity; ongoing struggle with Sudan over border demarcation, oil wealth and contested areas such as Abyei; and a host of other internal challenges, including the temporary shutdown of oil production and huge gaps in infrastructure, service delivery and institutions. With these challenges come significant internal contradictions, including a bloated military that often lacks authority over its soldiers, but is unable to shed volume for fear of backlash; violent and ineffective civilian disarmament campaigns; and widespread impunity for violence and corruption. It is all too clear that GoSS has remained far-and now only moved further-from surmounting these hurdles in its short history.

In sum, the historical CPA brought an end to the Sudanese North-South civil war that had been fought for more than two decades. The expectations of a peaceful development were extensive. Instead of peace, however, devastating violent communal conflicts have constituted a severe threat to human security in many parts of Sudan and South Sudan.

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<sup>252</sup> Johan, Brosche', Op. cit., p.127.

<sup>253</sup> Arnold & Alden. (2007), p.20 [www.trainingforpeace.org/pubs/nupi/wp-722.pdf](http://www.trainingforpeace.org/pubs/nupi/wp-722.pdf)

<sup>254</sup> UNMIS, *Sudan Humanitarian Overview 1 June – 1 July 2006* p. 2

## 4.2 Conclusion

The chapter has revealed that the CPA's main achievement was to end a long and bloody war, but much of the agreement was never implemented or was implemented only partially. The CPA's ultimate objective was to make unity attractive to the South through a process of democratic transformation. Yet the promised reformation did not occur, or occurred only at the margins. The Machakos Protocol provided for the establishment of a six-month pre-interim period, followed upon election by a six-year interim period of Interim Transitional Governance, to make unity attractive after which a referendum could be conducted on the status of the South. The referendum was successfully conducted, however, nowhere in the document was the seed of unity accurately promoted in the CPA. The CPA failed in its larger democratic transformation agenda and was not implemented in its entirety.

On power-sharing, the CPA created an asymmetrical federation in which the South was represented in a GoNU. Sudan's vice-Presidency and 28% of all cabinet posts were assigned to the SPLM/A. In addition, the South was granted a considerable degree of self-government. A Technical Border Committee was established to demarcate the North-South border as it existed on January 1, 1956. However, the TBC mandate was hampered by procedural disputes and accusations of political interference. While lauded for its achievement in ending the conflict between the North and South, the CPA was principally an arrangement designed to bring the civil war in Sudan to an end. It fell short of defining a concrete reform process and clear implementation modalities for many of the principles agreed upon, most of which were internal to South Sudan. As such, issues relating to peace building and state building were not adequately addressed, neither was a clear timetable drawn to resolve them.

The CPA created a system of revenue sharing between North and South Sudan. However, implementation of oil wealth-sharing was hindered by both political tensions and lack of administrative capacity. Under the Protocol, land commissions were to be created to deal with land alienation and related issues, but were never formed. The CPA created a special Abyei Protocol that granted Abyei status of a transitional area. This granted Abyei the right to conduct a separate referendum simultaneously with the rest of Southern Sudan. The Abyei Referendum Commission was also to be established to conduct the referendum. The government in Khartoum

was reluctant to permit the referendum, consequently the referendum commission was never set up, the referendum was never conducted and the status of Abyei has remained undecided.

The Southern Kordofan and Blue Nile States were granted a popular consultation defined as a democratic right and mechanism to ascertain the views of the people on the CPA. However, the security situation in the two states was not conducive to a positive outcome from the popular consultations. More importantly, the power struggles between the SPLM and NCP undermined the intent of popular consultations hearings and turned the hearings into a referendum either in favour of autonomy or federalism. The consultations in Blue Nile were not successful and had not been completed when the peace process ended. In sum, the desired political reforms was part of a process that began with the popular consultations, but that had not produced the desired outcomes and that stood to end with the completion of the CPA on July 9.

Finally on security, the SAF and SPLA contingents deployed to the JIUs as stipulated in the CPA were not functioning as integrated units. They were coexisting instead of being jointly deployed. The presence of different militia groups and other militarised civilians created social instability after the signature of the CPA. In the CPA, the SAF and SPLA were the only legal armed forces. This type of one sided demobilization, where the SPLA remains as the sole armed force, has created insecurity among ex-combatants from other groups. In sum, instead of peace, however, devastating violent communal conflicts have constituted a severe threat to human security in many parts of Sudan and South Sudan.

## **CHAPTER FIVE**

### **IMPACT OF THE COMPREHENSIVE PEACE AGREEMENT IN SUDAN AND SOUTH SUDAN**

#### **5.0 Introduction**

In 2005, the political life in Sudan fundamentally changed. Khartoum had for more than two decades been militarily challenged by a rebellion in South Sudan. On January 9<sup>th</sup>, 2005, however, the CPA was signed by the Sudanese government and the SPLM/A. The agreement brought an end to Africa's longest war (1955-1972, 1983-2005) that engulfed Sudan since its independence in 1956. The conflict, mainly between the Arab and Muslim North and the mainly African and Christian South, had killed more than two million people and displaced four million more. Six years after the signing of the CPA, the referendum was held in the South on January 2011, and close to 99% voted for independence, which was actualized six months later. The referendum marked an important stage in the implementation of the CPA. This was in accordance with part A, section 1.3 of the Machakos Protocol which state that "the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status." In addition to regulating relations between the two feuding parties from 2005 to 2011, the CPA also implemented the framework for the creation of two separate nations. The GoSS ceased to be a semi-autonomous regional government and became a national government. It ultimately created a new political dispensation and landscape in South Sudan. South Sudan was declared a republic on July 9, 2011 forming a major milestone of the CPA.

For many, this represented the successful culmination of a decade-long peace process. Hopes were high and enthusiasm of Southerners in Sudan reached a crescendo as the world waited to watch the flag of an AU member go down as that of a future member went up. As international observers applauded the CPA's success, the people of South Sudan also celebrated the birth of their nation with high expectations. Independence brought with it hope for a better future and the opportunity to build a united developmental state. Revenues from valuable oil resources, which were a primary source of the conflict between the two nations, gave South Sudan the opportunity to invest in the development of its natural and human resources. Additionally, formal separation was expected to end the long standing conflict with the Republic of Sudan. However, even as



South Sudanese enthusiastically celebrated their independence on July 9<sup>th</sup>, 2011, critics warned that the main challenges would still be lying ahead.

Independence became a reality for GoSS and its people. Large segments of the society, however, have been disappointed in the lack of peace dividends in many areas and because some of the similar problems remain as during the war. For instance, ending marginalization was a fundamental aspect of the political program of the SPLM/A. Still marginalization is prevalent in South Sudan despite being ruled by this party for more than eight years. Previously the entirety of South Sudan was disfavoured compared to Khartoum. Now peripheral areas of South Sudan are disregarded compared to Juba. Constructing a new state and a new capital, both almost from scratch, has infused the country with a new socio-economic and political dynamic. These challenges include, inter alia, security issues, poverty, economic productivity, and development of human resources, service delivery, resettlement and reintegration of IDPs/returnees/refugees, disarmament, demobilisation and reintegration (hereafter DDR) and the establishment of democratic institutions to ensure popular participation in the government. As a result, the government finds itself struggling to pace with the needs and expectations of a rapidly evolving society.<sup>255</sup>

## **5.1 Impact of the CPA in Sudan**

Until January 2011, the Sudan was the largest country in Africa and the 10<sup>th</sup> in the world. The signing of the CPA on January 2005 that ended more than two decades of civil war between the North and the South, and the eventual secession of South Sudan on January 2011 has had political, economic and financial implications for the Republic of Sudan.

### **5.1.1 Political Impact**

The Sudan split on July 2011, formally ending decades of fighting between the North and the South, and hopefully ushering in a new era of peaceful ties between the successor states, Sudan and South Sudan. Notwithstanding this truly monumental achievement and the attendant high expectations for peace and prosperity, the relationship between the successor states remains

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<sup>255</sup> Riek, Machar, T. (2011): *Experiences of State Building and Development in South Sudan*, in 'State Building and Development in South Sudan'; African Research and Resource Forum, Nairobi. pp.13-14.

contentious. In fact, a return to all-out armed confrontation is a worrying prospect.<sup>256</sup> Among the factors sustaining the current state of animosity are pestering disagreements over the common border, which have a bearing on differences over-oil sharing, citizenship, ownership of Abyei territory, popular consultations in Southern Kordofan and other issues carried over from the 2005 CPA. As seen earlier, some of these areas, particularly Abyei, Southern Kordofan and Blue Nile, have been engulfed in deadly clashes recently, as both South Sudan and Sudan accuse each other of fomenting conflicts within their territory.<sup>257</sup> Since South Sudan gained its independence, violent conflicts have been escalating in both countries as will be discussed in section 5.2.2 of this chapter.

The CPA put an end to a civil conflict of more than 20-years. This paved way for changes to the underlying power relations- both political and economic, and as a result, altered the state structure in Sudan. The text of the accord provided for radical shifts in the relationship between North and South. Southern Sudan were offered a traditional period of self-determination until, 2011 when they were to decide on secession or unity.<sup>258</sup> The power-sharing arrangements encouraged other marginalized regions and communities in Western and in Eastern Sudan to resort to violence, forcing the regime in Khartoum to close more deals in the form of political settlements. It stipulated the holding of national elections during the interim period. For the first time in Sudan's history, a secular non-Muslim Southern political party was a prime actor in electoral politics. More importantly, the CPA caused important alteration in the relations between religion (Islam) and politics, and the essence of political domination in Sudan. It stipulated that Sharia law will only be applicable in Northern Sudan.

Thus, contrary to many power-sharing agreements, the CPA paved the way for a gradual transition towards significant transformation and meaningful compromises- despite the fact that it was a deal between only two Sudanese actors.<sup>259</sup> The document changed the relationship between the two dominant political groupings, NCP and SPLM/A. It stopped the war and set the

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<sup>256</sup> Leben, Nelson Moro. (2011): *South Sudan-Sudan Cross-Border Relations*, in 'State Building and Development in South Sudan;' African Research and Resource Forum, Nairobi., pp.72-73.

<sup>257</sup> Ibid.

<sup>258</sup> Einas, Ahmed. (2009): "The CPA and the Dynamics of Post-Conflict Political Partnership in Sudan," Institute of African affairs, African Spectrum 3/2009:133-147.

<sup>259</sup> Ibid.

rules for sharing the disputed resources and powers between the two parties (representation in the state, and control of wealth and territory). Moreover, the CPA indirectly led to transformations within several geographical and administrative entities. The war in Darfur and the late tribal confrontations in Jonglei State in Southern Sudan are best illustrations for this political fallout. It disproves the common belief that both Northern Sudan and Southern Sudan are homogeneous political and social entities, and that the NCP and SPLM represents the whole of its people in Northern and Southern respectively.<sup>260</sup>

The CPA was designed to achieve a fairer deal for Southerners in the economic and political life of the country, as well as enhancing democratic governance in the rest of Sudan. For Darfurians, the CPA held promise that their grievances could be dealt with at last. Optimistic supporters of the agreement also regarded it as a model for resolving other conflicts in the Sudan. The very content and substance of the CPA, as a global agreement, meant that it inevitably compelled the government to treat all Sudanese conflict as a whole. By its very nature, the CPA spoke to the issue of transformation of Sudan as a country, which included the issues of democracy and pluralism. As a charter for good governance in Sudan, the CPA intended to also resolve issues of instability and conflicts in the country, which were a result of uneven development, inequitable sharing of resources and political marginalization. The aim of the SPLM/A was to negotiate to transform Sudan, and to serve the interests of all marginalized peoples of the country, including the East and the West.<sup>261</sup>

In his address of the Security Council in Nairobi on November 2004, Garang said that the Resolution would anchor the process and create momentum for peace rather than war. Both him and Ali Osman Taha raised Darfur as an issue of critical importance, with Garang insisting that the only way to avert further tragedy there was “to install a broad-based coalition government of national unity.”<sup>262</sup> Once a new coalition government was installed in Khartoum, it could lay the foundation for solving the problems of Darfur and other marginalized areas. Garang believed that a Southern presence in the government would have a transformative effect on Khartoum. The CPA would not only bring an end to the long-lasting conflict between North and South, but

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<sup>260</sup> Einas, Ahmed., *Op. cit.*, pp.133-147.

<sup>261</sup> Hilde F. Johnson., *Op. cit.*, pp.63-64.

<sup>262</sup> *Ibid.* p.162.

could also provide a political platform for addressing the underlying causes of the continuing conflicts in Sudan, including Darfur.<sup>263</sup>

However, all these have proved to be a false hope. The issues that were dear to the Darfurians, including the capital and reforms in the North, were sacrificed for the sake of a deal between the SPLM and the ruling party in Khartoum. As negotiations to end the North-South war were ongoing, a new rebellion started in Darfur. Ten years after its start, this conflict is still active. Despite recognizing that the peace agreement was at risk if Darfur was not addressed, the Naivasha peace process was narrow based and Darfur was excluded. Indeed, according to Arkou M:

People in Darfur were very expectant that CPA would bring democracy and freedom in the entire Sudan. We realized later that it was only designed for self-determination. It only tackled issues of South Sudan and completely ignored conflict in Darfur. Garang's death was a big blow because he championed a transformed new Sudan. We supported our Southern brothers in the struggle with the hope that they would support us in advocacy for regime change in Khartoum but so far we feel betrayed...<sup>264</sup>

### **5.1.2 Economic and Financial Impact**

Following the secession of South Sudan, the Khartoum government has had to determine how to govern alongside a new country carved out of it. The peace process came to an end without an agreement over revenue sharing and with the North in a decidedly insecure position thus, the Republic of Sudan has endured economic strain due to the loss of oil revenues in the budget. Oil revenues formed 75% of the state foreign exchange earnings and 45% of the general government finances. It is estimated that an average monthly \$300 million of revenues was lost in the budget with the separation of South Sudan. Now that South Sudan is independent from Sudan, three quarters of the former Sudan's oil production is now located in South Sudan. However, South Sudan is now landlocked without access to ports and needs Sudan's pipelines to send its oil out to other parts of the world. There was a dispute between the governments of Sudan and South Sudan over the transit of the oil pipeline and South Sudan's oil through Sudan. This caused blockage of the flow of oil exports for along time, leading to loss of revenue in transportation

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<sup>263</sup> Hilde F. Johnson., Op. cit., p.163.

<sup>264</sup> Arkou,M., Oral Interview, September 2013, Nairobi.

fees for Sudan. This had a direct impact on the balance of payments and state budget that resonated in the socio-political sphere.

Since the secession of South Sudan on July 2011, inflation rates have continued to soar leading to shrinking of the real value for money. According to Sudan's Central Bureau of Statistics (hereafter CBS), the May 2012 inflation rate was 30.4% compared to 28.6% in April of the same year. The government recently instituted several major economic reforms, which include the gradual removal of fuel subsidies. Due to fixed incomes and lifting of subsidies, the purchasing power of the consumer has dwindled considerably. This led to huge protests and riots in Khartoum and other parts of the country. The decreasing financial resources and the general economic outlook continue to serve as one of the major challenges to existing political, security and socio-economic structures. Sudan's economy is experiencing a real crisis. The country is undergoing symptoms similar to those that led to the Arab spring revolutions including poverty and high rates of unemployment. Almost half of the population live below the poverty line, and thousands from different sectors have left the country.<sup>265</sup> The continuing drain of skilled labour to neighbouring countries where job opportunities are better has taken its toll on effective preparation and implementation of development projects, while the general economic situation is expected to deteriorate further in future with the current wars in Northern states of Southern Kordofan, Blue Nile and Darfur going unabated.

Conflicts in these areas have affected the food situation in the country, causing frequent and chronic periods of acute food insecurity. The different conflicts, wars and the counter-insurgency warfare are the main causes of food insecurity in Sudan, particularly in the south and some northern states. They have had a direct impact on food security through: Destruction of infrastructure, Damage to the social and economic fabric, Weakening institutions that provide services, Mass population displacement, Warring factions preventing international assistance and food relief.

Further, the independence of South Sudan and a surge in refugees and IDPs returning to their places of origin marked 2011. The most vulnerable and insecure areas were the Three Protocol

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<sup>265</sup> Ministry of Labour, Public Service and Human Development Report. 2012. Op. cit.

Areas (Abyei, Southern Kordofan, and Blue Nile States) that border South Sudan, Darfur and Khartoum. Many factors have entrenched chronic poverty such as high inflation, depreciation of the Sudanese pound and the loss of the oil revenues from South Sudan, political turmoil in parts of the Middle East and North Africa that reduced remittances from Sudanese migrants. Along with conflict, displacement and reliance on irregular rainfall for domestic crop production, the country is in a state of food insecurity. In June 2012, about 4.7 million people in Sudan faced different levels of food insecurity. This was because of conflict and civil strife, poor 2011-2012 harvests, macroeconomic instability, and severely disputed trade flows that have limited market supplies and led to above average food prices. In sum, large population movements around the country occurred after the signing of the CPA in 2005 and the referendum in 2011, thus further adding strains to the food security situation.<sup>266</sup>

In addition, the NCP government faced a national debt of \$39 billion at the end of the peace process.<sup>267</sup> How this was to be tackled depended on the outcome of negotiations with the SPLM and the sympathy of the international community, particularly the US, and that had markedly declined after the invasions of Abyei and Southern Kordofan. And to make things worse, after secession Juba launched a new currency, despite having earlier agreed to accept the Sudanese pound for six months. In response, the Central Bank of Sudan also issued a new currency. All these manifest the society's frustration and the gloomy economic environment, and opens the door for many valid questions related to the survival of the regime.

The secession of South Sudan on July 2011 has overshadowed Sudan's macroeconomic development and has had a negative impact on the overall life of the Sudanese people. According to African Development Bank, 2012, features are: real Gross Domestic Product (hereafter GDP) grew modestly in 2013, mainly because of the loss of oil revenue and decline in population following the secession of South Sudan. The government of Sudan has attempted to address heightened economic and social challenges through the introduction of austerity measures; Youth unemployment, particularly among university graduates, is high and increasing.<sup>268</sup>

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<sup>266</sup> Farida, Mahgoub. (2004): "*Current Status of Agriculture and Future Challenges in Sudan,*" Current African Issues 57, Nordic African Institute, Uppsala, pp.58-60.

<sup>267</sup> John, Young. (2012), Op. cit., p.346.

<sup>268</sup> Farida, Mahgoub., Op. cit., p.21.

In sum, after more than half a century, Sudan is still suffering from the political, economic and social scars that colonial and civil wars left behind. Conflicts continue in many parts of the country. This state of unrest and instability has taken its toll on the country's human and natural resources and has led to chronic poverty that affects the overwhelming majority of the population.

## **5.2 Impact of the CPA in South Sudan**

The signing of the CPA on January 2005 marked the end of the civil war in Sudan that was fought between 1955-1972, and 1983-2005. Six years later in accordance with the CPA, the South conducted a referendum in which close to 99% voted for independence. South Sudan became a republic on July, 9 2011. The signing of the CPA and the secession of the South has had Diplomatic, Social and Economic, Governance, Political, and Security impact on the Republic of South Sudan.

### **5.2.1 International Relations**

During the war, the SPLM/A maintained strong ties with many African countries and received political, financial and military assistance from some governments. In East Africa, the RoSS is a member of the East African Community (hereafter EAC) and enjoys strong ties with the governments of Eritrea, Ethiopia, Kenya, Tanzania and Uganda. It subsequently established embassies around the world commensurate with what it perceives as its status as a sovereign nation. Under successive governments, Ethiopia provided significant political and military support to the SPLM/A. Eritrea provided major military assistance in the 1990s, especially to the SPLM/A and its allies in Eastern Sudan. The government has maintained warm relations with the US, Norway, South Africa and a number of other countries in Europe, Africa and Asia. Relations between China and South Sudan have also improved in recent years.

The key external issue for Southern Sudan has been, in the contemporary era, Islamisation and Arabisation coming from the North. Whereas in a previous time slavery had encroached on the South, resulting in many of its sons and daughters being taken out; today Sudan propagates its post-Bin Laden Jihad by aggressive anti-African actions through proxies such as the Lord's Resistance Army (hereafter LRA) and assorted militias. The consolidation of South-South

relations by South Sudan is part of a natural ongoing process of gaining strength through struggle. Khartoum has sustained a policy of interference in all the neighbouring states, not only those to the South, again due to its Arabisation and Islamisation project.

### **5.2.2 Social and Economic Impact**

The CPA brought an end to 22-year civil war with the North. The end of the struggle with the North not only deprived Southern leaders of their historic common enemy, but also opened the way for internal divisions to re-emerge. Several corruption scandals raised doubts about the Southern government's capacity to ensure acceptable governance standards. On June 2009, former Foreign Minister Lam Akol founded a new party, the Sudan People Liberation Movement for Democratic Change (hereafter SPLM-DC), citing financial and administrative corruption as one of the key reasons stalling the democracy building process in South Sudan.<sup>269</sup>

The wealth sharing Protocol provided SPLM with resources. Under the CPA oil revenues were to be shared 50-50, but in the event of a vote for independence the South would be legally entitled to all the revenues from oil within its territory, which was estimated to be about 75% of total oil production. What did they do with the wealth given? N, Oyiet remarked to me:

The massive resources has led to corruption, money laundering and other economic malpractices. The income gap has widened. We got independence for prosperity not for a select few, we have not enjoyed the peace dividends. At times, local people have been forced to leave their ancestral homes as a result of oil related activities without compensation. The SPLM has been exposed to the electorate. From 2005, South Sudan has lost close to \$4.2 Billion from corruption and kickbacks...<sup>270</sup>

To ensure transparency and fairness in regards to the allocation of funds to states and regions, CPA provided for the creation of a Fiscal and Financial Allocation and Monitoring Commission (FFAMC). It provided for fair and equitable distribution of government assets. However, according to N, Oyiet:

The institutions of the CPA were only on paper. Incompetent individuals became powerful than institutions due to corruption and lack of accountability. Wealth sharing was to address the economic gap between North and South. In South, it ended in the hands of a few individuals. Its intention was not

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<sup>269</sup> Roberto, Belloni., Op. cit., p.15.

<sup>270</sup> Oyiet, N., Oral Interview, November 2014, Nairobi.



achieved. Implementation of what the SPLM campaigned against the NCP became difficult after independence. This gave rise to anti-SPLM. Several rebel groups have challenged the regime in Juba. This contributed to the 2013 December 15 rebellion. Sudan and South Sudan also fought each other in an interstate conflict over oil resources and the contested border in 2012...<sup>271</sup>

After the signing of the CPA more than a million people returned home, prompting observers to hail the agreement as a success. According to the International Organization for Migration (hereafter IOM), an estimated 4million South Sudanese were displaced during the civil wars, IOM has tracked over 2.5million returning to South Sudan since 2005, with over 360,000 returning in 2011 alone.<sup>272</sup> Leaders from Juba and Khartoum initiated the Four Freedom Agreement (hereafter FFA) in 2012. The FFA would give citizens of both countries the freedom to undertake economic activities and freedom to acquire and dispose of property in either country. However, finalization of the deal stalled and Khartoum mandated that South Sudanese nationals currently resident in Republic of Sudan must leave the territory by April 2012. The GoSS committed \$50million to repatriation of South Sudanese citizens in coordination with FFA.

Most of Southerners who left the North for their ancestral homes in the South had been living in the Khartoum area for two generations and thus did not have a home village to return to. Their return and the possibility that many more would follow, put considerable pressure on the fragile infrastructure of urban areas in the South and is complicating and exacerbating land conflicts. The return of Southerners who spent years in the North and in some cases, in the neighbouring countries during the civil war had varied impacts. First, mass return posed a considerable strain on the new state, which has remained very poor and chronically underdeveloped despite oil wealth. Even major towns lack basic infrastructure such as running water, electricity and even roads (it is estimated that the South has less than 100km of paved roads). Return has deprived the South of remittances, which have recently constituted an important source of income. Second, these people, in relocating to cities and moving from one area to another, put a lot of strain on natural resources and contribute to land and environmental degradation. Increased temperatures

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<sup>271</sup> Oyiet, N., Oral Interview, (2).

<sup>272</sup> Mwangi, S. Kimenyi. (2012): “*Future Engagement between South Sudan and Republic of Sudan,*” in “*South Sudan one year after independence, Opportunities and Obstacles for Africa’s Newest Country,*” Africa Growth Initiative at Brookings, pp.7-8.

and decreased precipitation because of global climate change will further worsen the situation in the agricultural sector and consequently the food situation. Third, returnees presents South Sudan with an integration challenge that is not only economic but also cultural, because many of them, particularly the younger ones, returned to a land they were seeing for the first time, and where English is both the official language and one they did not understand.<sup>273</sup> R, Nyamai confided in me:

After the CPA, there were great expectations. People in refugee camps were expecting to return home. Repatriation started from the camps though this depended on whom you are. Some people came home and returned because of hard life in South Sudan. When we returned home from Kakuma refugee camp, we were discriminated against and told to go back to where we have been: ‘you are not our people.’ According to these people, we left the struggle and were only returning to enjoy what they had solemnly fought for...<sup>274</sup>

South Sudan depends squarely on oil revenues for its existing and planned economic activities. Oil production and export presented important advantages in supporting economic growth of South Sudan. However, it has also had a negative impact on the economy due to volatility of fluctuating oil prices in the international market and uncertainty related to the sustainability of oil revenue. Excessive dependence on oil, a non-renewable natural resource, is dangerous if the policy of economic diversification is not accelerated. While it may seem advantageous to have a booming natural resource such as oil in a country, it can actually form a major drawback as the country’s economy relies on, and revolves around, strictly one resource. The GoSS did not bother to re-organise its economy, especially the non-oil sectors, during the past six years. For instance, much border trade happened during the last six years in which South Sudan lost huge revenues to the action of corrupt individuals.<sup>275</sup> The resource rich South Sudan has not been able to use its abundance of oil to its advantage, but future progress might occur if management of the oil industry and relations with fellow nations improve.

Human security (as will be discussed in section 5.2.2 of this chapter) was also at stake when operations were put in place. The activities of multinational oil companies affected subsistence economies’ production negatively in the states. Inhabitants were exposed to displacement, loss of

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<sup>273</sup> Roberto, Belloni., Op. cit., pp. 13-14.

<sup>274</sup> Nyamai, R., Oral Interview, October 2013, Nairobi.

<sup>275</sup> Samson, Samwel, W., Op. cit., p.67.

grazing lands, and loss of herds of cattle. This led the cattle-owning communities in oil-producing states such as Unity to replenish their stocks by organizing predatory cattle raids across ethnic and state boundaries. Oil production affected the pastoralist economy as well as the food security of the transhumant people in the proximity of oilfields. Fishing was and is still an important economic activity for communities living in the margins of the Sudd Swamp. Fishing activities supplemented the diet of local communities and at the same time were a source of income. Oil companies polluted water to the extent that the fish population is dwindling in the natural habitat in the northern limits of the swamp.

The emerging markets of South Sudan are also of importance to East African economies looking to supply manufactured and agricultural products to the country. As a region struggling to recover from conflict, South Sudan looks to Kenya for overseas import commodities through its port of Mombasa and to Uganda for agricultural products. Hence, Southern Sudan is becoming a competitive market space for products from the region, and the oil money that poured into South Sudan before 2009 attracted new traders. The influx of people from the neighbouring countries into South Sudan began to invite tensions between nationals and foreigners. The presence of different communities of foreigners in control of sectors of economy is becoming a matter of security concern. There are incidences of banditry targeting foreign communities, especially in urban centres of South Sudan.<sup>276</sup>

Land alienation has been a major problem in Nuba Mountains, the greater Upper Nile and other states. The declaration that land belongs to the people was a political statement from SPLM to hand over the territory of the South to the people of South Sudan. However, land has remained contentious even to the Juba government. Customary ownership implies that even the government has no right over land. Due to belated implementation of a new national constitution and partly because of limited legal infrastructure and resources for enforcing any legal agreements that may be made, land and grazing rights have remained murky.

Both the Judiciary and the Ministry of Justice in South Sudan complement one another in the judicial and legal systems. These institutions were established in accordance with the CPA, the

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<sup>276</sup> Samson, Samwel, W., Op. cit., pp. 67-68.

Interim National Constitution (hereafter INC) and the Interim Constitution of Southern Sudan (hereafter ICSS). Despite deployment of judges and counsel in Juba and in the States, these institutions suffered from lack of professional and physical capacities. Also, lack of professional capacities was further compounded by shortage of physical infrastructure to accommodate legal offices in remote counties. In the past, courts were confined only to the three provincial capital cities of Juba, Malakal and Wau. The expansion of the judicial system after the CPA is a new challenge to the administration of justice. It is not easy to find buildings to convert into offices because the few constructions that were there were demolished during the war of liberation. Another problem is that the majority of rural populations are not familiar with settling disputes in professional courts. Many people in South Sudan revert to traditional leaders while seeking justice. Traditional justice mechanisms in South Sudan involve customary courts. In many cases, people take the law into their own hands and rely on the use of force to settle disputes. Thus, violent conflicts multiply in which small arms play decisive roles. This situation impacts negatively on the performance of justice and even more on social stability in many states of South Sudan.<sup>277</sup>

### **5.2.3 Governance, Political and Security Impact**

State building in South Sudan commenced right away after successful conclusion of CPA on January 2005. Steps towards state building were taken with the formation of the semi-autonomous GoSS. The GoSS started to establish key government structures in the form of the Legislative Assembly, Executive and Judiciary. This was subsequently followed by the enactment of foundational legislation, reform of the SPLA from a guerrilla movement into a professional and conventional army with civilian oversight, and steps were made towards effective policing and the rule of law. In addition, the CPA provisions had to be incorporated in the constitution of the land. Therefore, a new Interim Constitution of the Republic of South Sudan was enacted under the new constitutional arrangements, new land laws were enacted; the previous SPLA laws that were operational in the liberated areas were repealed. More importantly, the time witnessed the establishment of the civil service in South Sudan. The constitution ushered in the census of 2008 and the general elections on April 2010 respectively.

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<sup>277</sup> Samson, Samwel, W., Op. cit., pp. ., pp.62-63.

Facilitated by the widespread availability of arms, since 2009 violence has increased considerably. In 2010 alone almost 1,000 people were killed and an estimated 223,000 were displaced as a result of tribal fighting. In the first 3 months of 2011 more than 800 people have died while about 94,000 more fled their homes before the December 2013 political crisis.<sup>278</sup> Tensions at the local level have been triggered by growing competition for limited natural resources. Lack of just structures leads to poor governance of people and resources. This in turn brings about structural scarcity which in turn causes conflict when the people start to fight over the diminutive resources available.<sup>279</sup> Communal clashes are augmented by quarrels over water and land disputes, over cattle raiding and lack of internal border demarcations. The absence of accountable local governance structures able to deal with violence has contributed further to tensions.

Meanwhile, political differences within the Southern establishment have been degenerating into military confrontations. Internal tensions have escalated. Heavy clashes in the post-referendum aftermath between Southern forces and rebel factions in the Greater Upper Nile have left hundreds dead, many of them civilians.<sup>280</sup> Less than a month after the January 2011 referendum in the Southern Jonglei state, fighting involving forces loyal to George Athor, a former army officer and Presidential candidate, left over 200 people dead. In the town of Malakal, close to the North-South border, a rebel group refused to turn over its weapons to the SPLM, and heavy fighting erupted. Despite the CPA's prescriptions for reducing the size of both armies, evidence is ample that both sides strengthened their military hardware and posture during the interim period. These clashes prompted Khartoum and Juba to trade bitter accusations. Southern officials claim that Khartoum has been arming militias in order to destabilize the South, an accusation flatly rejected by the NCP. As a result of these war of words, the Southern government briefly walked out of talks with Khartoum over post-independence issues.

Security is a multi-dimensional subject of inquiry, especially in societies just emerging from armed conflict. Conflict societies that have undergone prolonged armed liberation struggles tend

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<sup>278</sup> Roberto, Belloni., Op. cit., p.15.

<sup>279</sup> N, P. Gleditsch. (2001): *Environmental Change, Security and Conflict*; in Crocker, C.A. et al (eds.) *Turbulent Peace: The Challenges of Managing International Conflict*; Washington, United States Institute of Peace, pp.53-68.

<sup>280</sup> Roberto, Belloni., Op. cit., pp.15-16.

to grapple with post-conflict security systems. South Sudan is situated in the middle of regions prone to different types of conflict. An effort to construct a security system that guarantees political stability and economic prosperity was, and continues to be, a tough battle to win.<sup>281</sup> Security was a major concern in North-South relationships in the implementation of the CPA. The process of political transition under the GoSS was marred by security raptures. There were insufficient functional security institutions, such as the police, prisons, courts, and traditional authority. The civil war destroyed much of the relevant public and community-based security sector institutions. Since 2005, the GoSS, with assistance from the international community has re-established Security Sector Reform (hereafter SSR) institutions. Important features of these reforms include key statutes: Judiciary Act (2007), the Code of Civil Procedure Act (2007), the Defence White Paper (2008), the Penal Code and Criminal Procedure Act (2008), The SPLA Act (2009), and the Local Government Act (2009). These laws led to the creation of institutions and designing of programmes to deal with post-conflict disorder and lawlessness.<sup>282</sup>

Tension between the parties to the Agreement was always at its highest in the oil-producing states of Upper Nile and Unity. Peace was always threatened in Abyei, in incidents such as the armed violence of 2008 and 2011. The area became an arena of continuous build-up of armed groups allied to the SAF. The response from the South was also a surge in the number of armed groups allied to the SPLA. This dispute between the NCP with the SPLM over securing Abyei under geographical spheres of influence is part and parcel of the boundary and oil disputes. The partners were always at odds over the deployment of troops in the oil areas, which lie along the borders between Sudan and South Sudan. The behaviour of the parties to the dispute indicate that the aggressive competition was the result of competition over territory and natural resources. These two elements are indisputably contributing factors to the uncertainties surrounding security between the North and South. It is becoming clear that the Sudan is trying by all means to implicate South Sudan in its conflict with Blue Nile and Southern Kordofan.

Fresh threats were mentioned to be coming from Khartoum government to prevent South Sudan from exporting its oil through the North, if the South did not accept the North's deal. President

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<sup>281</sup> Samson, Samwel W., Op. cit., pp.49-50.

<sup>282</sup>Samson, Samwel W., Op. cit., p.51.

Al-Bashir was reported by the South Sudan Radio Service (hereafter SSRS) during his meeting in Port Sudan on the 22<sup>nd</sup> June, 2011 as saying:

*“They (GoSS) said that they will not give us a single gallon of oil. Who explored this? We did, and that was during the war, we explored and protected it. Now I am saying it here from Port Sudan, that there are only three alternatives for the South: We either continue sharing the oil revenue or we get our fees on every single oil barrel that will pass through our territory. If they want neither of that, we will switch off the oil pipelines. We will not beg them or accept their conditions. They (GoSS) said they will pay us transit fees, but they will determine the price. There is nothing like that; we either get ours in oil forms, or fees and taxes on each oil barrel, or you (GoSS) look for another way of exporting your oil.”<sup>283</sup>*

These kinds of statements have jeopardised post-conflict peace building steps made by South Sudan.

Further, legacies of prolonged war of liberation has continued to haunt post-conflict South Sudan in its endeavour to establish a credible security sector. Despite the CPA, the security situation in South Sudan deteriorated at the political and community levels. Insecurity was attributed to a number of armed groups that fought on both sides of the war divide. The CPA changed progressively the relations between militia groups and the SPLA. The Juba Declaration of January 8<sup>th</sup>, 2006 sealed the process of reconciliation between the SPLA and militia forces that were created as proxy agents of the Khartoum regime during the war of liberation. This arrangement paved the way for absorption of about 18 militia groups under a number of warlords, while others joined the SAF as stipulated in the CPA. Many militia groups divided into splinter groups under new leaders who joined the government.<sup>284</sup> The huge number of militia groups complicated the implementation of the CPA in South Sudan because they created insecurity as a strategy for absorption into the SPLA with higher ranks. So, the GoSS found it

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<sup>283</sup> The statement from the President of the Republic of Sudan, Omar Al-Bashir on June 22, 2011 addressing the public in Port Sudan City in the Red Sea State.

<sup>284</sup> John, Young. (2006), Op. cit., pp.42-48.

difficult to establish a security structure that brings on board armed groups as stipulated in the CPA.<sup>285</sup>

The independence of South Sudan on July 9<sup>th</sup>, 2011 invited a security complex in relations between the North and South. The SPLM/A was a national liberation movement, which extended beyond the 1956 boundaries of Southern Sudan. The CPA was explicit on South alone, but was elusive on Abyei, Blue Nile and Southern Kordofan. It recommended a referendum for the Ngok-Dinka and popular consultations as a solution to grievances expressed by the Ingessana and Nuba people that did not identify themselves as Arabs. Violence replaced referendum in the Abyei CPA agreement. The exercise of popular consultations were marred by irregularities, which resulted in renewed violence. Failure to secure the unity of a mutilated Sudan pushed the Bashir regime to declare war on Southern Kordofan and Blue Nile on the pretext of disarming the SPLA in the North. The Sudan went ahead to accuse South Sudan of supporting the SPLA troops in the region. Thus Khartoum is provoking violence in Border States in the transitional areas to lure South Sudan into a war that could divert its economy from socio-economic development to a war economy.<sup>286</sup> A renewed armed conflict between the two states could complicate further the already delicate security balance in the Horn, Great Lakes Region and Central Africa.

South Sudan is located in a geopolitical region with many conflicts and complex border problems. Examples are abundant, such as the case of Ethiopia and Eritrea that led similar war at the close of the 1990s. The emerge of South Sudan as an independent country has added to more problems, ranging from border demarcation to human and livestock movements across borders. Pastoralist in South Sudan and neighbouring countries have vague notions about international and local borders. Their borders end where there is water and grazing land. This is true of the situation between South Sudan and Ethiopia or Kenya. The North-South border is sensitive because of the availability of natural resources such as water and its related resources, grazing land, arable agricultural land and oil. The issue of citizenship in the regions remains unresolved because of the arbitrary borders imposed by the colonial powers. Many border people in South

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<sup>285</sup> UNMIS (2009): *The CPA Monitor, June, Vol.5:43.*

<sup>286</sup> Samson, Samwel W., Op. cit., pp.51-54.



Sudan are found on the other side of the international boundaries. Political events in one country affects others because of the overlapping ethnic communities.

The IGAD brokered the CPA and shared responsibility in monitoring developments in Sudan. This organization faced a series of challenges in the process of waging peace in the Sudan. It could neither negotiate a peaceful settlement to challenges such as the two areas of Blue Nile and Southern Kordofan nor the status of Abyei. The border issues between South Sudan and Sudan remained hanging. It is proving to be a regional security hazard after the government in Khartoum chose to fight remnants of the SPLA and its political leadership in Khartoum. Military operations in the borderlands and aerial bombardments in the South Sudanese Border States of Western and Northern Upper Nile indicate how fragile the two states of the old Sudan are and how much of a security threat to the Horn of Africa they remain.<sup>287</sup>

### **5.3 Conclusion**

The CPA, signed on January 9<sup>th</sup>, 2005 by the GoS and SPLM/A brought an end to Africa's longest civil war. A ceasefire deal terminated more than two decades of armed confrontation. The document created a pre-interim period of six months, during which institutions and mechanisms provided for in the peace agreement were established. At the end of the pre-interim period, an interim period of six years of interim transitional governance, was established, the expiry of which, the people of South Sudan were given the right to self-determination through a referendum to determine their future status. Twenty five states were created in the Sudan, 10 states in the South and 15 states in the North. Semi-autonomous South Sudan was created, during which it established its own ministries and inaugurated its own development projects. The people of South Sudan were for once represented in the national government in Khartoum. The CPA created a symmetrical federation in which the South was represented in the GoNU. On January 2011, close to 99% of South Sudanese voted for independence in a referendum, which created two separate nations. South Sudan became an independent state on July 9<sup>th</sup>, 2011.

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<sup>287</sup> Samson, Samwel W., Op. cit., pp.56-57.

The South has effectively been a functioning state since the referendum and has made remarkable progress under very difficult circumstances. The RoSS is a member of EAC and enjoys warm relations with its neighbours. Constructing a new nation still recovering from a civil war has proven to be anything but easy for South Sudan. Many South Sudanese displaced during the civil war have returned home, though displaced again by the December 2013 political crisis. The expectations among the South Sudanese were high upon independence. However, many have since been disappointed at the lack of peace dividends. Marginalization and corruption is still prevalent in the nascent nation as they were during the inter-war period. Internal tensions have escalated. Heavy clashes in the post-referendum aftermath between the government and rebel factions have left thousands dead, many of them civilians.

Three years since separation, the post-divorce relations with Sudan is retrogressive. The peace process came to an end without resolution of contentious border issues and revenue sharing with the North in a decidedly insecure position. Political differences between the two nations have been degenerating into military confrontations. Despite the CPA's prescriptions for reducing the size of both armies, evidence is ample that both sides strengthened their military hardware and posture during the interim period. Now that South Sudan is independent from Sudan, three-quarters of the former Sudan's oil production is now located in South Sudan. However, South Sudan is now landlocked without access to ports and needs Sudan's pipelines to send its oil out to other parts of the world. This has created conflicts between the two states.

Following the secession of South Sudan, the Republic of Sudan has experienced economic strain due to loss of oil revenues. Along with conflict with the South, population displacement and reliance on irregular rainfall for domestic crop production, the country has been left in a state of food insecurity. The government has attempted to address these heightened economic and social challenges through the introduction of major economic reforms which include austerity measures and gradual removal of fuel subsidies. The agreement put an end to a civil conflict of more than 20years, and paved the way for changes to the underlying power relations- both political and economic, and as a result, altered the state structure in Sudan. It caused important alteration in the relations between religion (Islam) and politics, the essence of political domination in Sudan.

## **CHAPTER SIX**

### **CONCLUSION**

The aim of the study was to examine the Sudan Comprehensive Peace Agreement and its Impact, 2005-2014. Its point of departure was asking the following research question: Was the CPA implemented? And what were the impact of its implementation/lack of implementation on Sudan/South Sudan? The statement of the problem was triggered by the fact that despite the successful referendum and eventual secession of the South, conflict has persisted between and within the two independent states. The various CPA Protocols were used as the unit of analysis in the study to determine whether they were implemented or not and the impact of their implementation/lack of implementation on Sudan and South Sudan.

The study examined the Sudan peace processes and the formulation of the CPA. The Sudan entered the twenty first Century mired in not one but many civil wars. What had been seen in the 1980s as a war between North and South, Muslim against Christians, Arab against African, had after nearly two decade of hostilities broken the bounds of any North-South conflict. Fighting had spread into theatres outside the Southern Sudan and beyond the Sudan's borders. Not only were Muslims fighting Muslims, but Africans were fighting Africans. A war once described as being fought over scarce resources was now being waged for the total control of abundant oil resources. The conflicts in Sudan were considered structural. Structural violence results from unbalanced structures (skewed distribution of resources like political, power, knowledge, wealth and so on). Whenever persons are harmed, maimed or killed by poverty and unjust social, political, and economic institutions, systems or structures, we speak of structural violence. If resources are monopolised by a group/class or are used for other purposes, then human beings are unable to realise their full potential and violence is present in the system. In a society experiencing structural violence an actor/group is prevented by structural constraints, from developing its talents/interests in a normal manner, or even from realising that such developments are possible.

Structural violence is built into the structure of social relationships and is often manifested by the existence of social injustice, unequal power and unequal life chances. Peace researchers believe that conflict can only be resolved by changing the underlying structure and specifically by taking

sides in a conflict against the forces of oppression. Mitchell<sup>288</sup> and Brown<sup>289</sup> posit that aggression occurs in those relationships where one party has more decision making powers at the expense of the other, thus the need for just and equal structures in the society. Conflict in Sudan were considered embedded on unjust and non-equitable legal, political, social and economic structures prior to the eruption of the wars. The application of structural approach interrogates how interests of each of the parties led to conflict between SPLM/A and GoS. Issues of conflict between the parties were disagreements over governance, self-determination for Southern Sudan and wealth. Most of the conflict issues can be traced back from the colonial period but the situation was exacerbated by the post-colonial Khartoum regimes. After independence, the Khartoum regimes emphasized Arabicism and Islamism without considering Sudan's diversity. In 1983 President Jaafar Nimeiry abrogated the Addis Ababa Accord of 1972 and established a religious state based on sharia. He abolished regional autonomy government for South Sudan and divided it into three weak regions namely Equatoria, Upper Nile and Bahr al-Ghazal. These political developments led to formation of SPLA/M to fight institutionalized racism and religious bigotry that subjugated and marginalized the South. The SPLA/M demanded self-determination for South Sudan through a referendum so that its people can decide their future destiny.

The history of the country reveals that several major conferences were convened in an attempt to resolve the conflict between the North and South. These include the Juba Conference of 1947, the Khartoum Round Table Conference of 1965, the 1972 Addis Ababa Accord, the Koka Dam Conference of 1986, the 1988 DUP/SPLM/A Sudan Peace Agreement, the 1989 National Constitutional Conference, the 1989 Jimmy Carter talks and the 1992/93 Abuja Peace Conferences. The continuous flawed agreement that marred Sudan Peace Agreements led to the formation of the Inter-Governmental Authority on Drought and Development (IGAAD), the fore-runner to IGAD. This 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 cooperation in safeguarding the international order. Conflict in Sudan was considered systemic and would affect the Horn of

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<sup>288</sup> Mitchell, C. R. "Classifying Conflicts: Asymmetry and Resolution," *Annals of the American Academy of Political and Social Science*, Vol. 518, *Resolving Regional Conflict: International Perspective* (Nov. 1991), pp.23-38.

<sup>289</sup> M.E. Brown, "Ethnic and Internal Conflicts: Causes and Implications," in C.A. Crocker, et al, (eds.) *Turbulent Peace: The Challenges of Managing International Conflict*, (Washington: United States Institute of Peace, 2001), pp.209-226.

Africa, East Africa, regional and international systems. This study analysed conflict in the context of greater Horn of Africa conflict system centred on the Sudan.

As the war in Sudan raged, it was becoming urgent that the Presidents of the countries neighbouring Sudan accelerate the peace process. It had a great impact both within Sudan and in the region. The human cost of the war had been immense although no reliable figures exist to tabulate the cost. Apart from the dead, the war had caused a lot of displacement both internally and into neighbouring states. The leaders argued that the region was lagging behind as a result of the conflict in Sudan and an urgent solution had to be found. Even after the referendum, the issue of rehabilitation of displaced persons is still high on the agenda. The political impact transcended the international boundaries. Most of the SPLA/M leadership found sanctuary in the neighbouring countries. At the height of the conflict, relations between GoS and her Southern neighbours soured with the government accusing the neighbouring states with harbouring and assisting the SPLA.

The situation grew tenser and finally led to a rebel group from Uganda fighting the Ugandan government from Sudan. Such occurrences internationalized the conflict. All these events were important in predicting the ripeness of mediation process, effective entry and the outcomes of the process. They were also pertinent in making the conflict complex and more dynamic, leading to the invitation of the IGAAD into the conflict. These factors also deteriorated the humanitarian affairs in the region with the growing number of the dead, the injured and the displaced. Specifically, there was an influx of refugees in neighbouring states, leading to socio-economic burdens. This carried the face of the regionalized Sudan conflict making almost all IGAD member states to have close proximity with the conflict. As such, there was impetus from member states to resolve the conflict. This impetus was demonstrated by IGADs commitment to peace by creating permanent committees and secretariats. With these in place, the mediation was able to sustainably transform the conflict.

The year 1993 marked the beginning of the IGAD intervention in the Sudan wars. The IGAD peace initiative on Sudan appeared to have achieved what other efforts and processes had failed to do in more than twenty years, namely reaching a signed peace agreement between SPLM/A

and the GoS. IGAD's engagement in the Sudan peace process began on September 7, 1993 when it established a Standing Committee on Peace to assist negotiations and end Sudan's civil war. The IGAD Sub-Committee was entrusted with the responsibility of bringing the Sudanese conflict to an end through a negotiated settlement. The period May 2002 to January 2005 marked the second phase of the IGAD peace initiative. Frustration with the lack of progress in the peace process and 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 assumption the US would support IGAD's efforts, provided the impetus for the second and successful IGAD peace initiative. The interests of the belligerents belated the process. This was one of the research hypothesis for this study.

The SPLM/A threatened to leave the negotiations if issues important to them-particularly self-determination-were not addressed very soon. The principle of self-determination, including the option of an opt-out, or independence, had to be part of the negotiating text and be addressed at once.<sup>290</sup> If one country, their preferred governance arrangement would be confederation, providing the basis for a New Sudan and unify Southerners and the Three Areas. Khartoum rejected this position. This, coupled with the government's rejection of a secular state, left the SPLM with only one option: self-determination, exercised by referendum, and with an option of independence. The government delegates to the negotiations were adamant that Islam and Sharia had the highest priority. These were the "red line" issues.<sup>291</sup> The intervention of IGAD to mediate the GoS and SPLA/M yielded fruit by enabling the belligerents to sign the various Protocols discussed in chapter three and four of this thesis. The signing of these Protocols culminated into the CPA, signed on January 9<sup>th</sup>, 2005 by John Garang and Ali Osman Taha in Nairobi. This was to mark the official end of twenty two years old civil war in the Sudan.

Further, the study assessed the implementation of the CPA. The various Protocols and provisions of the CPA were examined, to determine whether they have been implemented or not. The signing of the CPA provided Sudan with an opportunity to redress some Southern challenges. The CPA's major achievement was to end a long and bloody war, but much of the agreement

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<sup>290</sup> Hilde F. Johnson., *Op. cit.*, pp.45-47.

<sup>291</sup> *Ibid.*, pp.47-49.

was never implemented or was implemented only notionally. In the Machakos Protocol, the peace agreement was to be designed and implemented so as to make unity of the Sudan an attractive option especially to the people of South Sudan. However, the people of South Sudan were given the right to self-determination, inter alia, through a referendum to determine their future status. It is highly surprising how a peace settlement could lump together options for unity and separation into a single agreement. Nowhere in the document was the seed of unity accurately promoted in the CPA, even the national reconciliation that was mentioned was left to the ruling party to implement.

The acrimonious interim period made unity unattractive and despite assertions to the contrary, the CPA was not implemented in its entirety. Instead those in power in Khartoum and Juba decided which aspects were most important and focussed on implementing them. For the South, the referendum was the top priority. Almost everything was negotiable but the referendum had to be held on time and be free of Northern meddling. The South made it clear that if there was no referendum and secession, they were willing to return to war. While the CPA foresaw the creation of a GoNU predicated on a close partnership between the NCP and the SPLM/A, the collaboration between the two parties during the peace implementation process remained limited to the protection of each party's own interests. The formulation and implementation of the CPA was influenced by the interest of the belligerents. This was one of the research hypothesis for this study.

The NCP resisted implementation because it considered it as a threat to its survival and chose to manage the transition period without allowing for fundamental changes to take place. The North discouraged the South's interests and involvement in nationwide issues. It also had a history of instigating violence to protect its interests. But lost in this selective implementation was the CPA's larger democratic agenda, which aspired to reform the exclusionary and divisive governance practices that had prevailed in Sudan for decades. The CPA's ultimate objective was to make unity attractive to the South through a process of democratic transformation. Yet the promised reformation did not occur, or occurred only at the margins. As a result of these broader political dynamics, peace implementation proceeded between (few) advances and (many)

setbacks. The study tested the hypothesis that poor implementation of the CPA led to the failure of its mission.

The Protocol on Power-Sharing established the GoSS as per the borders of 1/1/56 consisting of the Legislature, Executive and the Judiciary of Southern Sudan. All institutions were to be democratically legitimated, but elections were held only on April 2010, that is, one year after the schedule. This delay in the first multi-party national elections for 24-years meant that the power-sharing system created by the CPA was neither endorsed nor democratically tested for over 5-years after the signing of the agreement. The CPA also resolved that the boundaries of South Sudan are those in existence at the time of independence, 1 January, 1956 and called for the border to be demarcated within six months. On September 2005, in accordance with the CPA, a Technical Border Committee was established by Presidential Decree 29 and supported by national and international experts. However, the TBC only started functioning in mid-2006, one year later than foreseen in the CPA. The TBC was unable to carry out its tasks owing to procedural disputes and accusations of political interference. To ensure that the TBC would remain ineffective during the first 5-years of the interim period, the two partners withheld funding and disbursements, leaving the TBC helpless to carry out its mandate. By the end of 2010, the Committee had not yet finished its work. Drawing of an internationally agreed boundary line has not been put in place by the two states. The fact that poor implementation of the CPA led to the failure of its mission is here evident. This was one of the research hypothesis for this study.

The CPA resolved that a comprehensive process of national reconciliation and healing throughout the country be initiated as part of the peace building process. However, despite a litany of abuses, serious human rights violations, violations of international humanitarian law, some of the worst crimes imaginable, no one in South Sudan has ever been held accountable for anything. Among unaccountable crimes are specific, highly charged incidents. Apart from these cases, there have been other very serious crimes: ethnic cleansing and crimes against humanity. In Jonglei State, thousands of people were killed, people abducted, and property looted. However, none of these crimes have been answered for. This was demonstrative of the fact that this question of impunity is very deeply embedded. Although impunity was not invented during



the CPA period, the process did nothing to discourage it. It provided no functional framework of accountability for past crimes or non-violent and non-militaristic resolution of disputes, and impunity has been widespread, contributing to ongoing cycles of violence that certainly contributed to the current (early 2014) crisis. Even the human rights that were granted in the wealth sharing Protocol were not implemented. No details were provided on the mandate of the Human Rights Commission, when it was to be established, who were to serve on it and whether there was to be any role of civil society.

The issue of oil necessarily raised the subject of border demarcation, of which there had been no resolution, since most oil deposits are on or near the North-South border. The CPA created a system of revenue sharing between the North and the South. It prescribed that 2% of all revenue was to remain in those areas where the crude is extracted, while the rest were to be divided equally between the North and the South. The implementation of the Protocol on oil-wealth sharing was hindered by both political tensions and lack of administrative capacity. In particular, the absence of any reliable data about Sudan's oil production made it impossible to determine precisely how to divide the oil-generated wealth. Institutional delays and lack of transparency over revenues, along with disagreements over demarcation in oil-rich regions, generated considerable distrust between the two sides. Oil-sharing has remained a crucial issue in the relationship between the North and the South and is still contentious to date.

It is instructive to note that the negotiations that led to the CPA put great emphasis on ending the protracted conflict between North and South Sudan. It therefore focused primarily on securing agreements between the then major warring parties; SPLM/A and the NCP. It is noteworthy that most analysis on the referendum never focused on its potential implications on the North because secession would have ramifications in the North too. While lauded for its achievement in ending the conflict between the North and South, the CPA was principally an arrangement designed to bring the civil war in Sudan to an end. It felt short of defining a concrete reform process and clear implementation modalities for many of the principles agreed up on, most of which were internal to South Sudan. As such, issues relating to peace building and state building were not adequately addressed, neither was a clear timetable drawn to resolve them. The 2005 CPA was not a governance blueprint nor was it structured to be a bridge through which a new political,

economic and social dispensation would be nurtured as many expected. Most importantly, it moved the conflict from a military and rebel conflict to the political sphere, but it failed to address the root question of the separation of military and political issues. The hypothesis that the CPA did not address long term structural problems in Sudan/South Sudan has been tested here.

On the Resolution of Abyei Conflict, CPA created a special Abyei Protocol that granted Abyei status of a transitional area. This guaranteed Abyei the right to conduct a separate referendum simultaneously with the rest of Southern Sudan, to determine whether Abyei retains its special administrative status in the North or be part of Bahr-el Ghazal. This referendum was to be conducted by Abyei Referendum Commission. However, the referendum commission was never set up, the Abyei referendum never took place and the status of Abyei has remained undecided. As far as the boundaries are concerned, the CPA stipulated that the Abyei border be resolved by Abyei Boundaries Commission, established by the Presidency and composed equally by representatives of the NCP, SPLM and the international experts. According to the ABC mandate its decision was final and binding. However, when the ABC delivered its verdict to the Sudanese Presidency on July 14<sup>th</sup>, 2005, both the NCP and Misseriya immediately rejected this decision. The refusal of the NCP to accept the ABC's findings was one of the central factors that slowed the implementation of the CPA.

The NCP's intransigence most likely had to do with the ABC's inclusion of the strategic oil fields of Heglig and Diffra in the Abyei area and, furthermore, because a rejection would prolong, for NCP, economically lucrative status quo. The Misseriya also rejected the Permanent Court of Arbitration's ruling on the border demarcation due to claims of not being properly included in the consultations, and that the demarcation would exclude them from participating in the upcoming referendum. For the SPLM/A, the GoSS's economy is driven solely by foreign aid and oil revenue, and the potential of getting exclusive access to the Abyei oil fields would have a stabilizing effect on this one-track economy. The failure to hold the Abyei referendum and demands that the Misseriya be permitted to participate in any such exercise led to the worst skirmishes since 2008 invasion, between SAF and the SPLA and their allied armed groups in the first half of 2011, which ended with a full scale invasion of the territory by SAF on June 20.

Thus, this Protocol was poorly implemented due to the interests of belligerents. This was one of the research hypothesis for this study.

The Southern Kordofan and Blue Nile States were granted a popular consultation defined as a democratic right and mechanism to ascertain the views of the people on the CPA. The implementation of the Protocol on the resolution of the Conflict in Southern Kordofan and Blue Nile States, on top of its structural weakness, was affected by the overall implementation of the CPA and the tense relations between Juba and Khartoum. The weakness of the overall project of a new united Sudan enshrined in the CPA became evident. Rather than a model for the development of the new democratic Sudan, the implementation of the Protocol of the two areas revealed the weakness of the New Sudan vision in the CPA and among its signatories.

From the research findings, the consultations in Blue Nile were not successful and had not been completed when the peace process ended; consequently the national government passed legislation to extend the process by six months. As a result of late elections, the conduction of crucial process of popular consultations in the two areas was pushed towards the end of the interim period, missing its function of correcting the implementation of the CPA in the mid-interim period. As such, the process conflicted with the political tension between the North and South around the referendum time and Khartoum was afraid that the states would demand the right to self-determination as well. In the Blue Nile the process started on September 2010 with a massive popular participation that was asking for the reforms that did not materialize through the CPA and a degree of autonomy from Khartoum. In the aftermath of the CPA not only democracy, but also peace, was at stake in Sudan.

Power struggles between the SPLM and NCP undermined the intent of the popular consultation hearings and effectively turned the hearings into a referendum, and as a result their mentors kept records of the statements at the hearings in favour of autonomy and federalism, and it would appear that those hearings viewed them in the same way. It is reported that the official civic education was conducted by day, and by night the SPLM and NCP provided their own education. Such actions undermined the overall goal and spirit of the popular consultations to gauge citizen's views. The security situation in the two states was also not conducive to a positive

outcome from the popular consultations. The SAF contingent in the Blue Nile State numbered in the range of 15,000-20,000, considerably above the stipulations of the Security Arrangements Protocol which reduced it to the pre-war level of two battalions or about 1600 soldiers, and a further 3,000 in JIUs. In sum, the desired political reforms was part of a process that began with the popular consultations but that had not produced the desired outcomes and that stood to end with the completion of the CPA on July 9. The fact that poor implementation of the CPA led to failure of its mission, is here evident.

On security, it was agreed that during the interim period Sudan would remain with two separate armed forces with a Joint Integrated Unit. Further, no armed group allied to either party was to be allowed to operate outside the SAF and the SPLA. However, the South Sudan Defence Forces and other militia groups that were excluded from the negotiations of the CPA remained a serious threat to sustaining the peace agreement. The Juba Declaration of January 2006 on unity and integration of the SPLA and SSDF averted the immediate danger that faced the survival of the CPA. This integration was not totally achieved as certain factions chose not to integrate and tensions persisted between the NCP and SPLM whenever there was a security breach. Some militarised groups other than the SSDF participated in the civil war but were neither allied to SAF nor the SPLA. The presence of different militia groups and other militarised civilians created social instability after the signature of the CPA. Most of the insecurity in South Sudan was blamed on militia groups that were not aligned with the SPLA.

Although the referendum and actual secession of South Sudan proceeded peacefully, the research found that even before the South formally achieved independence both governments were actively supporting one another's dissidents and these conflicts intensified in the post-9 July. The two countries, Sudan and South Sudan, are involved in a proxy war, in which the regime in Khartoum provides weapons to rebels in Southern Sudan and the regime in Juba provides weapons to rebels in Sudan. The NCP regime support these groups mainly because the relation between the two countries was far from harmonious. Instead, issues such as demarcation of the border between the countries, oil, and the support of rebels in each other's countries constituted fundamental issues that were left unresolved. The hypothesis that the CPA did not address the long term structural problems in Sudan/South Sudan has been tested here.

South Sudan has experienced several new armed rebellions since the end of the North-South war. All of these groups were supported by the Sudanese government as mentioned earlier. Efforts by the SPLA to disarm the militia groups following the CPA have been disastrous, leading to violent and drawn-out fighting in which many of the youths have lost their cattle herds and their lives. In the post independent years, political factors driving the Nuer to violence have included perceived marginalization by and power struggles with Dinka, frustration about disarmament and lack of security from Murle raids and violence committed by SPLM/A actors over the years before and since the CPA for which there has been little accountability. At the same time, disarmament efforts following the CPA were carried out quite violently although ultimately fairly effectively, in northern Jonglei, which diminished cattle raiding between the Dinka and the Nuer as well as between various Nuer clans in Jonglei and Upper Nile. However, it did not contribute to increased trust between the Nuer and GoSS or the SPLA.

In sum, the CPA terminated the Second Sudanese civil war that had been engaging for 22 years and gave extensive autonomy to Southern Sudan. The expectations of a peaceful development were extensive. It did not, however, end violent conflicts in the region. Instead, violent communal conflicts have devastated most areas of Southern Sudan since the end of the civil war and have constituted a severe threat to human security. The Greater Upper Nile Region (constituting the states of Jonglei, Unity and Upper Nile) has been particularly shattered by such conflicts. In fact, the conflict between the Murle and Lou Nuer, taking place in Jonglei, is one of the world's most violent communal conflicts and has killed more than 3,000 people since 2006. We can conclude that the CPA did not address long term structural problems in Sudan, and the interests of the belligerents partly contributed to the failure of its mission.

Finally, the study carried out an evaluation of the impact of the CPA in Sudan and South Sudan. The CPA brought an end to Africa's longest war that had engulfed Sudan since its independence in 1956. It proved successful in terminating a 22-year conflict between Arabs in the North and Africans in the South, and which killed more than two million people and displaced four million more. On January 2011, six years after the signing of the CPA, a referendum was held in the South and close to 99% voted for independence, which was actualised six months later. This was a major milestone in the implementation of the CPA. GoSS ceased to be a semi-autonomous

regional government and became a national government. South Sudan became a republic on July 9, 2011. For the people of South Sudan, the independence brought hope for a better future and the opportunity to build a united developmental state. Formal separation was expected to end the long standing conflict with the Republic of Sudan. However, even though the independence became a reality for GoSS and its people, critics warned that the main challenges would still be lying ahead.

The CPA was designed to achieve a fairer deal for Southerners in the economic and political life of the country, as well as enhancing democratic governance in the rest of Sudan. However, in the divide of Northern and Southern Sudan, insurgencies and the Khartoum government continue to oppose each other despite the framework of the CPA. Local conflicts related to cattle raids and grazing rights and persistent national conflicts are inextricably linked in Sudan and South Sudan, complicating efforts to reduce violence and build sustainable peace. While the people of South Sudan were largely united in the war against Khartoum, the country is to a large degree ethnically fragmented, with each group seeking to maximise its own objectives- a process that has significantly weakened the ability of the government to work towards national integration. During the war period, there were promises that at independence, the wounds inflicted would find away to be healed, yet, in the 9-years since the signing of the CPA, efforts at healing and reconciliation have stalled. The end of the struggle with the North not only deprived Southern leaders of their historic common enemy, but also opened the way for internal divisions to re-emerge. Several corruption scandals have raised doubts over the Southern government's capacity to ensure acceptable governance standards.

The study found that following the secession of the South, the Khartoum government has had to determine how to govern alongside a new country carved out of it. The Republic of Sudan has endured economic strain due to loss of oil revenues in the budget. It is estimated that an average monthly \$300 million of revenue was lost in the budget with the separation of South Sudan. Inflation rates have continued to soar leading to shrinking of the real value for money. According to Sudan's Central Bureau of Statistics, the May 2012 inflation rate was 30.4% compared to 28.6% in April of the same year. The government instituted several economic reforms which include the gradual removal of fuel subsidies. The decreasing financial resources and the general

economic outlook continue to serve as one of the major challenges to existing political, security and socio-economic structures. Conflicts in the Southern Kordofan, Blue Nile and Darfur have affected the food situation in the country, causing frequent and chronic periods of a acute food insecurity. Moreover, it altered the power structure in Khartoum. The power-sharing arrangements encouraged other marginalized regions and communities in Western and Eastern Sudan to resort to violence, forcing the regime in Khartoum to close more deals in the form of political settlements. The CPA stopped a war and set the rules for sharing the disputed resources and powers between the two parties (representation in the state, and control of wealth and territory). As a consequence, it contributed to intensifying ethnic claims and competition over resources within both Northern and Southern Sudan. In the course of this, new dynamics have developed between the two parties and significantly between them and the opposition parties.

State building in South Sudan commenced immediately after successful conclusion of the CPA on January 2005. The RoSS is a member of EAC and enjoys strong ties with the governments of Eritrea, Ethiopia, Kenya, Tanzania and Uganda as well as with the US, Norway and China. It has established embassies in various countries in the world commensurate with its status as a sovereign state. Steps towards state building were taken with the formation of the semi-autonomous GoSS. The GoSS started to establish key government structures in the form of Legislative Assembly, Executive and Judiciary. A new Interim Constitution of the Republic of South Sudan was also enacted. The constitution ushered in the census of 2008 and the general elections in April 2010 respectively. Soon after the signing of the CPA, more than a million people returned home. The independence of South Sudan On 2011 led to a surge in refugees and IDPs returning to their places of origin. This mass return posed a considerable strain on the new state, which has remained very poor and chronically underdeveloped despite oil wealth. The returnees have put a lot of strain on natural resources and contribute to land and environmental degradation. They also present South Sudan with an integration challenge that is not only economic but also cultural, because many of them, particularly the younger ones, returned to a land they were seeing for the first time, and where English is both the official language and one they do not understand.

South Sudan has been plagued by governance and security challenges and widely perceived as an extremely weak state since its birth. Due to widespread availability of arms, interstate and intrastate violence has increased considerably. Tensions at the local level have been triggered by growing competition for limited natural resources. Communal clashes are augmented by quarrels over water and land disputes, over cattle raiding and lack of internal border demarcations. According to the Malthusian Principle, high population growth will ultimately put pressure on the available resources and end up in a crisis.<sup>292</sup> Natural resources are those resources found in natural form like crude oil, diamonds, arable land, pasture, watering points and so on. Deteriorating resource bases coupled with a rapidly growing population can lead to a conflict or exacerbate the existing tension. Unjust structures coupled with inequitable distribution is more often than not a tasty recipe to conflict.

Security is a multi-dimensional subject of inquiry, especially in societies just emerging from armed conflict. Conflict societies that have undergone prolonged armed liberation struggles tend to grapple with post-conflict security systems. An effort to construct a security system that guarantees political stability and economic prosperity was, and continues to be a tough battle to win. Security was a major concern in North-South relationships in the implementation of the CPA. The independence of South Sudan on January 9, 2011 invited a security complex in relation between the North and South. The border issues between South Sudan and the Sudan remained hanging. It is proving to be a regional security hazard after the government in Khartoum chose to fight remnants of the SPLA and its political leadership in Khartoum. Military operations in the borderlands and aerial bombardments that have occurred in the South Sudanese Border States of Western and Northern Upper Nile indicate how fragile the two states of the old Sudan are and how much of a security threat to the Horn of Africa they remain.

## **6.0 Direction for further research**

This study focused mainly on the formulation, implementation and impact of the CPA, 2005-2014. The study, therefore, aims to assess, update and reflect the concerns of the current post-referendum era. As this study was being conducted, civil war in South Sudan is still raging. A ceasefire and power-sharing deal between the government and the rebels was recently signed. It

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<sup>292</sup> T. R. Malthus (1992): *An Essay on the Principle of Population*; Cambridge, Cambridge University Press.



would, therefore, be worth investigating whether this agreement would succeed in bringing about lasting peace in the nascent country.

Drawing of an internationally agreed boundary line has not been put in place by the two states. The border issues between Sudan and South Sudan remained hanging. The support of rebels in each other's countries also constitute fundamental issues that were left unresolved. The CPA could neither negotiate a peaceful settlement to challenges such as the two areas of the Blue Nile and Southern Kordofan nor the status of Abyei. How will the border issue span out? These calls for further research.

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**UNIVERSITY OF NAIROBI  
DEPARTMENT OF HISTORY AND ARCHAEOLOGY**

**To whom it may concern:**

Dear respondent, I am a student at the University of Nairobi, Department of History and Archaeology, pursuing a degree in M.A. Armed Conflict and Peace Studies. Please assist me with relevant information that will enable me complete my thesis titled, THE SUDAN COMPREHENSIVE PEACE AGREEMENT AND ITS IMPACT, 2005-2014. The objective of the interview is to examine the CPA, whether it was implemented or not, and the impact of its implementation/non-implementation. Did the CPA live up to its mandate of democratic transformation in Sudan/South Sudan? Did the CPA succeed/fail? This is strictly an academic exercise; views from participants will be kept confidential. Participation in this exercise is voluntary and should take only a few minutes of your time.

Further enquiries regarding this study may be forwarded to:

Mr. J.O. Apando, Registration number C50/70394/2011, Phone number 0736 442107  
C/O Department of History and Archaeology, University of Nairobi.

**PART A**

Name.....

Sex:

Age:

Nationality:

Date:

**PART B**

1. Can you describe the turn of events in Sudan and South Sudan after the signing of the CPA? Is everything well in Sudan and South Sudan after the CPA?
2. Are you aware of the CPA? If YES, are you satisfied with the procedure of making the CPA? Was it comprehensive?
3. Do you think the issues that led to the CPA have been addressed? If Yes, How? If No, Why?
4. What were the impacts of the CPA in Sudan/South Sudan?
5. In your own opinion and the present situation in Sudan/South Sudan, did the CPA succeed/fail?
6. What mechanisms do you think can be put in place to address the current situation in Sudan/South Sudan especially in relation to the CPA?