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FAILURES OF THE COMPREHENSIVE PEACE AGREEMENT AND THE UNCERTAIN FUTURE OF SOUTH SUDAN

Major K.H. Tromp

JCSP 38

Master of Defence Studies

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By Major K.H. Tromp
Par le major K.H. Tromp

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ABSTRACT

On the 9th of July 2011, South Sudan became the world's newest country, and less than a year later it is embroiled in a war with Sudan. This paper shows that although the Interim Period of the Comprehensive Peace Agreement (CPA) finished with a successful referendum on southern self-determination, two overriding factors resulted in an unsuccessful peace. The first is the historical animosity between northern and southern populations, and the second includes the unresolved issues left from an incomplete implementation of the CPA.

This paper concludes that throughout modern Sudanese history, northern populations have dominated southern populations which has led to a rift that is proving impossible to overcome. The period examined commences with the Turco-Egyptian rule in Sudan, continues through the Interim Period of the CPA from 2005 to 2011 and finishes with the present situation in Sudan as of April 2012. It is demonstrated that the unresolved issues from the Interim Period of the CPA are simply fuelling this historical animosity to create the current state of uncertainty and violence.

The problematic issues remaining from the CPA's Interim Period that are analyzed include the actions taken by the governments involved in CPA implementation, the effectiveness of United Nations Mission in Sudan (UNMIS), border demarcation, oil revenue sharing, the region of Abyei, the states of Blue Nile and South Kordofan and the 2010 National Elections. Unilateral American actions that helped bring the CPA to a successful conclusion are also investigated. The conclusions reached are that President Bashir and his National Congress Party (NCP) were hostile towards CPA

implementation, that the Sudan People's Liberation Movement / Army (SPLM/A) did not have the capacity to implement the CPA, that the Government of National Unity (GONU) did not meet its mandate of promoting unity, that the United Nation's assistance in CPA implementation was unable to overcome the obstinacy of the governments involved, that the CPA document was a flexible document that depended on goodwill for implementation, and that unilateral American actions were a factor in salvaging the southern referendum. The paper finishes by discussing the issues that have brought Sudan and South Sudan to a limited war in 2012 and what might be done to de-escalate the situation.

LIST OF ABBREVIATIONS

ABC	Abyei Boundaries Commission
AUHIP	African Union High Level Implementation Panel
CPA	Comprehensive Peace Agreement
DoP	Declaration of Principles
FFAMC	Fiscal and Financial Allocation and Monitoring Commission
GONU	Government of National Unity
GOS	Government of Sudan
GOSS	Government of South Sudan
ICC	International Criminal Court
ICF	Islamic Charter Front
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
JIU	Joint Integrated Unit
NASC	National Alliance for Salvation of the Country
NDA	National Democratic Alliance
NIF	National Islamic Front
NCP	National Congress Party
NPC	National Petroleum Commission
NUP	National Unionist Party
PAIC	Popular Arab Islamic Congress

PCA	Permanent Court of Arbitration
PDF	People's Defense Force
POC	Protection of Civilians
SAF	Sudanese Armed Forces
SPAF	Sudan People's Armed Forces
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
SPLM/A	Sudan People's Liberation Movement / Army
SPS	Sudan Political Service
SRF	Sudan Revolutionary Front
SSDF	South Sudan Defence Force
SSLM	South Sudan Liberation Movement
SSU	Sudan Socialist Union
TMC	Transitional Military Council
UN	United Nations
UNAMID	African Union/United Nations Hybrid operation in Darfur
UNISFA	United Nations Interim Security Force for Abyei
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in the Republic of South Sudan
UNSC	UN Security Council
UNSCR	UNSC Resolution

INTRODUCTION

During the six months I spent in 2010 as a Staff Officer with the United Nations Mission in Sudan (UNMIS), I became keenly interested in the implementation of the Comprehensive Peace Agreement (CPA) and what future lay ahead for Sudan after its referendum on self determination scheduled for January 2011. With UNMIS, I had the opportunity to spend time in both the northern and southern parts of Sudan, and was struck by how disparate the geography and demography was between the regions. The north is predominantly desert, predominantly peopled by Afro-Arabs who practice Islam while the south is quite lush in the rainy season and has a largely African population that practices Islam, Christianity and animist faiths. As you will see later, the definition between race and religion in the north and south is not actually this clear, despite what is popularized in the media, but it is a place to start. In any case, the people I met both in the north and in the south all seemed to believe that the south's secession was a foregone conclusion, yet it appeared that the parties involved were woefully unprepared for this inevitable outcome. The current conflict between Sudan and South Sudan less than a year after the southern secession appears to validate this conclusion.

On the 28th of January 2012, South Sudan stopped its oil production after discovering that a portion of its oil was being appropriated by Sudan as a payment in kind for the use of the north's pipeline infrastructure. South Sudan relies on the northern pipeline infrastructure to get its oil to market via Port Sudan on the Red Sea, but was deadlocked with Sudan on the transit fees that could be collected. This decision halted the primary source of revenue for the two countries. Other ongoing issues include

insurgencies in both Blue Nile and South Kordofan States between rebel forces and the Sudanese Armed Forces (SAF), and the occupation of the Abyei region by northern forces. The issue that ignited the current conflict occurred on the 10th of April 2012 when the Sudan People's Liberation Army (SPLA) occupied the Heglig region in South Kordofan. This conflict has a high probability of escalating to all out war between the two countries. How is it that after six years of CPA implementation, Sudan and South Sudan can be at war?

Several parties were involved in the CPA and its implementation, the Intergovernmental Authority on Development (IGAD) brokered the protocols contained in the CPA, the Government of the Republic of the Sudan (GOS) and the Sudan People's Liberation Movement (SPLM) were the entities that negotiated the agreement, the United Nations Mission in Sudan (UNMIS) undertook a mandate to assist the parties with the implementation of the CPA, and the Government of National Unity (GONU) was the National Government established by the CPA to promote unity as the preferred choice for the southern Sudanese people. It is important to objectively analyse the CPA, its implementation, and the parties involved in its implementation between 2005 and 2011 in order to understand the issues that are impeding a lasting peace between Sudan and South Sudan in 2012.

This paper will show that although the Interim Period of the CPA finished with a successful referendum on southern self-determination, two overriding factors have resulted in an unsuccessful peace. The first factor is the historical animosity between northern and southern populations, and the second involves all of the unresolved issues left from an incomplete implementation of the CPA. It will be demonstrated that

throughout modern Sudanese history, northern populations have dominated southern populations which has led to a rift that is proving impossible to overcome. The problematic and unresolved issues remaining from the Interim Period of the CPA have simply fuelled the historical animosity and have led to the current conflict. Specific issues that will be analyzed include border demarcation, oil revenue sharing, the region of Abyei, Blue Nile and South Kordofan states, and the 2010 National Elections. It will be shown that President Bashir and his National Congress Party (NCP) were hostile towards CPA implementation, that the Sudan People's Liberation Movement / Army (SPLM/A) did not have the capacity for implementing the CPA, that the UN's assistance in implementing the CPA was hampered by the obstinance of the other parties involved, and that the GONU did not fulfill its mandate of promoting unity. It will be shown that the CPA document itself was not fundamentally flawed, but rather provided flexibility and required the goodwill of both northern and southern governments to be properly implemented. This paper also shows that American actions helped salvage the southern referendum.

The conflict in Darfur will not be discussed in any significant detail. Given that Darfur and South Sudan share a border, it is inevitable that there are links between the ongoing conflict in Darfur and the north-south conflict the CPA hoped to resolve; however, there was a clear separation between the Darfur conflict and the north-south conflict made when it was decided which parties would be involved in negotiating and ratifying the CPA.

The first chapter consists of a brief history of the last two hundred years in Sudan. This must be undertaken in order to fully appreciate the North-South rift that has

developed. The second chapter deals with the CPA agreement itself, the history behind it, its basic provisions and its dependence on the goodwill of both governments. The third chapter covers the CPA's Interim Period between 2005 to 2011, including an analysis of the parties involved, the major issues during this period, and unilateral American actions. The fourth chapter looks at the post secession issues and events that contributed to the current conflict between Sudan and South Sudan. The final chapter details the conclusions reached and what might be done to resolve the ongoing war between Sudan and South Sudan.

CHAPTER 1 - Modern Sudanese History and the North-South Rift

Attempting to understand why Sudan and South Sudan are at war less than a year after southern secession is not impossible unless one has an appreciation of modern Sudanese history, the after affects which linger and complicate current events.

When looking at the history of modern Sudan, it is important to keep in mind two recurring themes that have shaped the north-south conflict to this day. The first is the issue of Afro-Arab dominance of political and economic power in Sudan. More specifically, it has been the riverine Afro-Arab tribes of the Nile River that have dominated positions of power in Sudan throughout its modern history.¹ Their dominance has come at the expense of the people's of Sudan's periphery, including the predominantly African peoples in the south. This has created a lasting animosity that continues to make peace impossible. The most damaging example of the Afro-Arab dominance of the African population in southern Sudan was the exploitation of southern populations through slavery and the slave trade which flourished under the Turkiya and continued during British occupation even after being outlawed. The second is the issue of Islamization and Arabization of Sudan. There has been a concerted attempt throughout modern history to impose Islam and Arabic culutre on the entirety of Sudan, despite the many different religions and culutres throughout the country. This Islamization and Arabization has been a fundamental source of discontent for the peoples of the south, many of whom are not of Arab decent, nor Muslim and who resent these

¹ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 8.

impositions by the northerners. The history that follows covers the period from Turkiya rule to the signing of the CPA and should be read with these two common themes in mind.

Turco-Egyptian Rule 1821 - 1885

In 1820 Muhammad Ali of Egypt conquered much of northern Sudan by defeating the Mamluks, and established a new government in 1821. Between 1821 and 1885 Sudan was effectively under the control of the Turkiya or Turco-Egyptians, as Egypt was part of the Ottoman Empire. Under the Turkiya the slave trade in Sudan flourished, and through this economic expansion and exploitation of southern areas the southern populations were both impoverished and demeaned. Their inhuman exploitation through slavery, were the principal origins of the North-South divide that commenced under the Turkiya.²

Between 1838 and 1863 there was a period of weak Turco-Egyptian leadership during which Europeans gained influence and made efforts to convert the southern population to Christianity. European traders built forts throughout southern Sudan and used armed Arab retainers as security forces. These Arabs who settled around the forts became a ruling class by virtue of their weapons and began to take African wives.³ This further strengthened the rift between northern and southern Sudanese. Although slavery was abolished in 1860 by the Egyptian government, there was no enforcement of the law and northern Sudanese slave traders continued to prosper and perpetuate the North –

² Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars* (Bloomington: Indiana University Press, 2003), 5.

³ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 16.

South divide.⁴ In 1869, the British began to gain influence within Sudan, having been engaged by the Turco-Egyptian rulers of Sudan in an effort to promote better governance in the region. British influence in Sudan increased when Britain took control of Egypt in 1882 by defeating the Egyptian Army.

The Mahdists 1881 - 1898

An attempt by the Egyptians to impose a form of Islam called Salafism on the northern Sudanese who practiced Sufism, a form of Islam containing elements of mysticism, gave rise to the Mahdi who led his people to defeat the Egyptian and British occupying forces. Mahdism was a movement started in 1881 by Muhammad Ahmad ibn as Sayyid Abd Allah, who claimed he had received a vision making him the prophesized Expected One.⁵ He was raised in the Sufi order and through his leadership and charisma managed to unite Sudanese Sufis. His declaration of a jihad and the subsequent Mahdist movement culminated in the capture of Khartoum and the beheading of General “Chinese” Gordon in Khartoum in January 1885.⁶ He succeeded in establishing a jihad state, complete with Sharia Law. While the Mahdi died several months after capturing Khartoum, the Mahdist movement continued until its army was defeated in 1898 by Lord Kitchener in a one sided battle outside of the city of Omdurman. It was this Mahdist

⁴ Federal Research Division Library of Congress, *Sudan, a Country Study* (Washington, DC: U.S. Government Printing Office, 1992), 17.

⁵ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 18, 21.

⁶ Mike Snook, *Into the Jaws of Death: British Military Blunders, 1879-1900* (London: Frontline Books, 2008), 322.

period that reinforced the hegemon of the Arabized Sudanese at the expense of the non-Arabized Sudanese who were oppressed and exploited.⁷

The Anglo-Egyptian Condominium 1898 - 1956

Britain retook Sudan using Kitchener's forces for a variety of reasons. It had economic interests in Sudan, it wanted to control the Nile waters, and it wanted to consolidate its position in Sudan prior to any attempts by other colonial powers in Africa to annex Sudanese territory. Furthermore, by controlling Sudan it minimized any threat to Egypt and its control of the Suez Canal.

The period of Anglo-Egyptian rule in Sudan lasted from 1899, when the Anglo-Egyptian Condominium Agreement was signed, until Sudan's independence on the 1st of January 1956. All Governor Generals of Sudan during this period were British and reported through the Foreign Office in Cairo to Britain. During this period, the British encouraged Islam and Arabic in the north while at the same time encouraging Christianity and English throughout the south, even to the point of excluding northern Muslims from the south, in what was known as the Southern Policy.⁸ Schools in the north were Muslim and students spoke Arabic, while southern schools were run by Christian missionaries who taught in English. The divide between North and South Sudan continued to widen.

A counter-argument to the idea that the British colonial rule deepened the divide between north and south is proposed by Jok Maduk Jok who writes that although

⁷ Ruth Iyob and Gilbert M. Khadiagala, *Sudan: The Elusive Quest for Peace* (Boulder: Lynne Rienner Publishers Inc., 2006), 59.

⁸ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 42.

northern intelligencia often blames the British for this division “rarely, if ever, do they acknowledge that there has never been any historical oneness between the ‘two parts,’ or many parts for that matter.”⁹ There is some merit to this, as there was already a large gap between the peoples of northern and southern Sudan prior to British colonial rule, but in any case there was a deep North-South division that continued.

The British also instituted a system of governance known as Indirect Rule in 1919 that allowed for tribal leadership with British district officers of the Sudan Political Service (SPS) acting in an advisory capacity. This manner of governance was cheaper in that it did not require educating Sudanese administrative officials known as the *effendia*.¹⁰ Another milestone of the Anglo-Egyptian Condominium was reached in 1929 with the signing of the Nile Waters Agreement between Egypt and Sudan which effectively gave Egypt full usage of the Nile waters during the dry season. This agreement was modified with the signing of the 1959 Nile Waters Agreement allowing Sudan more use of the Nile waters and permitting the building of two major dams in Sudan.¹¹

With the growing education of northern Sudanese, nationalism started taking root, and in 1945 the Umma Party (the party of the Islamic community) was established with the goal of an independent Sudan. In 1948 a Legislative Assembly was formed in Sudan, which was dominated by the Umma party, but which had some southern representation.

⁹ Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford: Oneworld Publications, 2007), 33.

¹⁰ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 37.

¹¹ Federal Research Division Library of Congress, *Sudan, a Country Study* (Washington, DC: U.S. Government Printing Office, 1992), 148.

This was the beginning of Sudanese independence and on the 1st of January 1956 Sudan declared independence from both Egypt and Britain.

Independence and Southern Discontent

Independent Sudan was unstable from the very start. In August 1955, only months prior to Sudan's independence, there was a mutiny in the southern town of Torit by army and police units dissatisfied by northern rule that spread to three provinces. This rebellion is generally referred to as the starting point of the first Sudanese Civil War. There were two key constitutional issues that were unresolved and major sources of discontent in the south, the question of whether Sudan would be federalist or unitarist, and whether the country would be Islamic or secular.¹² The southern Sudanese, fearful of northern control preferred federalism, while the northern Sudanese wanted Unitarism in order to minimize any chances of southern separation. Early governments in the post-independence period moved towards the Arabization and Islamization of all of Sudan including the south, while southern discontent and resistance increased.¹³ The decision by the government in Khartoum to force the integration of southern Sudan into a unified Sudan under northern hegemony brought the simmering North-South tensions to full out civil war. The lines had been drawn and civil war became the norm for the majority of the period between 1956 and 2005.

1958 saw a pair of firsts in Sudan, starting with a national election throughout the entire country including 46 seats allocated to the southern provinces, followed in

¹² Ruth Iyob and Gilbert M. Khadiagala, *Sudan: The Elusive Quest for Peace* (Boulder: Lynne Rienner Publishers Inc., 2006), 80.

¹³ Richard A. Lobban Jr., *Global Security Watch Sudan* (Santa Barbara: Praeger, 2010), 35.

November 1958 by Sudan's first military coup. The coup was executed by Major-General Ibrahim Abbud who took control of the country and declared a state of emergency. Abbud formed a Supreme Council of the Armed Forces to rule the country, but had trouble due to the rise of the communist party and disunity within the military. His government's policy towards the south was harsh, forcing the Arabization of southerners and ordering all Christian missionaries out of the southern territory in 1964.¹⁴ The rebellion in the south strengthened, and in 1960 the rebel group Anyanya was formed, while Arthur Deng formed the Sudan African National Union (SANU) in 1963. Armed and political resistance began in earnest in southern Sudan in 1963-64, including an organized attack on the city of Wau.

Major-General Abbud dissolved his government in Oct 1964 due to pressures from professionals in Sudan, and rioting over government policies, particularly in the areas of economics and education. There were elections in March of 1965 and another unstable government was formed in Sudan based on a coalition of the Umma Party, the National Unionist Party (NUP) and the Islamic Charter Front (ICF) which was the political side of the Muslim Brotherhood. Despite the end of the military government, the elected northern government attempted a heavy handed suppression of the southern rebellion which further deepened the southern hatred of the north due to the atrocities it committed. A particularly grievous example of this was a rampage of army soldiers in Juba on the 8th of July 1965 which resulted in the deaths of approximately 1400 southern

¹⁴ Federal Research Division Library of Congress, *Sudan, a Country Study* (Washington, DC: U.S. Government Printing Office, 1992), 37.

civilians.¹⁵ Once again, the northern government unabatedly continued the process of Arabization and Islamization of the south.

Unstable coalition governments in Sudan continued with a change in Prime Minister in 1966, a coup attempt in 1966 and new elections in both 1967 and 1968. Some stability returned with the successful coup of Colonel Jaafar Numeiri in May 1969.

The Numeiri Years, 1969 - 1985

Colonel Numeiri and his Free Officers, with the support of the Sudan Communist Party (SCP), took control of Sudan in May 1969 and established the Democratic Republic of Sudan. There was a nationalization of economic institutions due to the communist party's support of his regime; however, in 1971 Numeiri decimated the SCP after they attempted a coup. After a plebiscite in Oct 1971, Numeiri became president for next six years and the Sudan Socialist Union (SSU) party became the sole party allowed to participate in the government.

In the south, a former Lieutenant in the northern army, Joseph Lagu, became the leader of the Anyanya resistance. Under Lagu, the movement received training and weapons from the Israelis who had decimated the Arabs in the 1967 Six Day Arab-Israeli war and hoped to establish another front against the Arabs¹⁶. The Israelis established a training camp in Ethiopia and trained Anyanya officers in Israel, while they moved weapons into Sudan through Ethiopia and Uganda. In 1971 Lagu renamed his movement the South Sudan Liberation Movement (SSLM). He was successful with his southern

¹⁵ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 86.

¹⁶ *Ibid.*, 104,105.

resistance movement by allowing different southern ethnicities to function as units, instead of attempting to integrate the different ethnicities within his units. It is important to note that the southern populations were tribal in nature, and that their tribal nature continues in the new country of South Sudan. The largest ethnic groups in the south are the Dinka and the Nuer, although there are many smaller tribes as well.

While there was heavy fighting between the government forces and the rebels in 1970 and 1971, it was becoming obvious that the northern government could only control the southern cities, while the rebels held much of the rest of the south, and therefore a negotiated solution might be the best solution. In late 1971 negotiations started and in March of 1972 the Addis Ababa Agreement was ratified, ending the civil war that had raged since Sudan's independence in 1956. In May of 1973, this agreement was placed in a new secular constitution approved by the government.

The Addis Ababa agreement declared that the southern region border would be the line of 1 Jan 1956, a border the British devised to define the boundary between the northern and southern regions just prior to Sudan's independence from Britain on 1 Jan 1956. It was also decided that English would be the main language in south, while Arabic would be the main language in the north. A new Southern Command in the Sudan People's Armed Forces (SPAF) would be formed and half composed of southerners, half northerners. The agreement allowed for southern autonomy through the Southern Regional Government and National Assembly established in Juba. It also declared that the border region of Abyei, which was in dispute, would determine its future via referendum of self determination. Interestingly enough, more than forty years later Abyei is still waiting to determine its future by a referendum.

In 1973 the Southern Regional Government was elected and by 1976 the SPAF had an integrated army Southern Command and it seemed like progress was being made in North-South relations; however, the secular constitution of 1973 was being met by stiff opposition from Islamic fundamentalists in the north. There were failed coup attempts in 1975 and 1976, and Numeiri steadily consolidated power within his presidency at the expense of government in order to maintain control of Sudan.

Oil was discovered in Bentiu by Chevron in 1978 (see Fig 2.0 on page 34), a discovery that was to have lasting effects for Sudan, as it eventually became the main source of income for both the northern and southern governments. When oil reserves were discovered the Numeiri government immediately moved to remove the management of this resource from the southern government. It will be seen that this practice of excluding southerners from oil resources primarily located on southern lands has continued since 1978, and in 2012 is at the center of a show down between Sudan and South Sudan.

In 1981 President Numeiri dissolved the Southern Regional Government, and in June of 1983 he abrogated the terms of the Addis Ababa Agreement by dividing the south into three states, Equatoria, Upper Nile and Bahr al-Ghazal. In September of 1983 he implemented Sharia Law and ended any pretense of a secular nation in an effort to regain his power base in the north.

The second civil war started in the summer of 1983 after the abrogation of the Addis Ababa Agreement. The war was sparked in the town of Bor in May 1983 by a mutiny of southern troops unhappy with pay and directives to relocate north, which forced an aggressive government response. The Sudanese officer sent to crush the

rebellion was Colonel John Garang, who instead defected and became the leader of the mutiny. Dr. John Garang wrote the manifesto for the SPLM/A in April of 1983,¹⁷ just prior to forming the SPLM/A via the Bor mutiny in May. Dr. Garang was a charismatic Dinka man educated in the United States, receiving a MSc and PhD from Iowa State University. He rose through the ranks of the Sudan Army to Colonel before his defection. Dr. Garang took his rebels and joined Anyanya II forces (formed in the mid-1970's) in Ethiopia. Dr. Garang's goal throughout his many years of leadership of the southern rebellion was to achieve a national unity in which all citizens had equal rights and freedoms.¹⁸ He was not an advocate of southern separation, which at times caused rifts within the other southern factions of the rebellion.

The Transitional Military Council, 1985-1989

Numeiri was removed from power by a popular uprising led by the National Alliance for Salvation of the Country (NASC) in 1985. The Transitional Military Council (TMC) was also established to aid the transition to an elected government. In 1986, the NASC made the Koka Dam Declaration in conjunction with Dr. John Garang and the SPLM/A. This declaration was a commitment to hold a constitutional conference and promised a cease-fire if conditions such as the repeal of Sharia Law could be met.¹⁹ Elections in 1986 brought yet another shaky coalition government led by Sadiq al-Mahdi

¹⁷ *Ibid.*, 140.

¹⁸ Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford: Oneworld Publications, 2007), 87.

¹⁹ Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars* (Bloomington: Indiana University Press, 2003), 72.

and the Umma Party that was not able to further engage the SPLM/A or make any of the concessions necessary for a cease fire.

Between 1987 and 1989, the SPLM/A made significant gains, capturing several southern cities. In response, the northern government unleashed untrained militias on the south, including the Misseriya and Baqqara peoples. These militias were armed by the north and allowed to viciously brutalize the southerners without restriction or consequence. “They would attack a Dinka village at dawn, kill all adult males who could not escape, rape the women, and enslave the children. The village would be burned, the wells stuffed with dead Dinka males, schools and clinics destroyed, and the huge herds of cattle rounded up as loot.”²⁰ This indiscriminate warfare waged by the militias and supported by the northern government perpetuated and deepened the North-South rift.

In June 1989, al-Mahdi was able to suspend Sharia Law and enter into an agreement with the south; however it was all for naught as at the end of that same month Omar Hassan Ahmad al-Bashir led a group of hardline Islamic military officers in a coup that successfully took control of the government and ended any hope of a secular state and peace with the south. This would lead to a continuance of the cycle of Islamization and Arabization of southerners and would prove to further divide the northern and southern peoples.

From Bashir to the CPA, 1989-2005

Omar Hassan Ahmad al-Bashir usurped power in June of 1989 from a weak coalition government during a period of economic devastation. There was a drought in

²⁰ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 176.

the 1980's in much of Sudan which left thousands dead and starving, Sudan's debt at the time was one already one of the largest in the world, and the war with the south was costing two million dollars a day (1986) with inflation running at 80% a year (1989).²¹ Bashir took power and immediately began to rule with an iron fist. He established a new security organization composed of hardcore Islamists and arrested most opposition politicians, enforcing Islamic theology and policy ruthlessly on the population. Bashir temporarily banned all rival political parties and shut down all media that was not controlled by the state, and throughout his tenure as president armed militias to fight in Darfur and in the south.²²

In August and December 1989, ex-President Jimmy Carter brokered talks between the Government of Sudan (GOS) and the SPLM/A in Nairobi, but these talks proved unsuccessful due to their inability to overcome the northern insistence on an Islamic state and the southern insistence on a secular state.²³ Thus, the war between northern and southern Sudan continued. Bashir fought using his armed forces supplemented by militias, and a paramilitary organization called the People's Defense Force (PDF) created by drafting young men into service without proper military

²¹ *Ibid.*, 184.

²² Unsigned, "Background: Decades of North-South Conflict," *Al Jazeera*, 2 July 2011, Internet; available at <http://www.aljazeera.com/indepth/spotlight/southsudanindependence/2011/07/20117217141500611.html>. Accessed 17 April 2012.

²³ Ruth Iyob and Gilbert M. Khadiagala, *Sudan: The Elusive Quest for Peace* (Boulder: Lynne Rienner Publishers Inc., 2006), 92.

training.²⁴ Bashir attempted to put as many men as he could into the war effort to defeat the south.

The SPLM/A had a division within its ranks in August of 1991 when the SPLM/A-Nashir was formed by Riek Machar due to its desire to separate from the north which contradicted Garang's goal of a unified Sudan with equal rights for all citizens. This division was important as it led to bloody infighting within the southern rebellion and thousands of civilian deaths.²⁵

In 1991, Hassan al-Turabi, an influential member of Bashir's government, established the Popular Arab Islamic Congress (PAIC). The purpose of PAIC was to unify radical Islamists from around the world and sponsor worldwide terrorism. Terrorist training camps to support this endeavour were set up, and in 1991 Osama bin Laden took up residence in Khartoum. By 1993, after the February bombing of the World Trade Center, the U.S. had added Sudan to its list of state sponsors of terrorism. This policy of supporting terrorism in Sudan led to Sudan's marginalization in the international community and the imposition of American sanctions.

In 1992 there was a concerted African effort to establish peace in Sudan and to this end peace talks sponsored by Nigeria were held in Abuja between the GOS, SPLM/A, and SPLM/A-Nashir. These talks proved unsuccessful on the longstanding issue of Sudan as an Islamic state, but it was an important milestone in establishing African involvement in the peace process. Talks sponsored by the Intergovernmental

²⁴ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 193.

²⁵ Don Petterson, *Inside Sudan: Political Islam, Conflict, and Catastrophe* (Boulder: Westview Press, 2003), 64.

Authority on Drought and Development (IGADD) began in March of 1994 and resulted in a Declaration of Principles (DoP), or the Asmara Declaration, achieved through negotiations between the SPLM/A, the SPLM/A-United (formerly SPLM/A-Nashir) and the National Democratic Alliance (NDA), signed in Asmara, Eritria.²⁶ This declaration was unique in that it was negotiated between the southerners and a coalition of northern political parties called the NDA which were opposed to Bashir's government. Although they were not in power, they represented a significant force within the government and helped to create a consensus within the northern population that the southerners had a right to self-determination. With the signing of the DoP, these parties agreed that southern Sudan would have the right to self-determination and Sudan would be democratic and secular. Although the DoP was rejected by the GOS, "The 1995 declaration is thus a landmark in post-colonial Sudan's political development as it represents a point of no return in terms of the right to self-determination."²⁷ It started a dialogue that continued when IGADD became the Intergovernmental Authority on Development (IGAD) in 1986. IGAD, as a regional organization, had a vested interest in stabilizing the situation in Sudan and hoped to broker a made-in-Africa peace in Sudan that would be a benefit to all of the countries in the region.

In April of 1994, the SPLM/A held a National Conference with hundreds of military and civilian attendees from all over southern Sudan in an effort to consolidate its position of authority in the southern rebellion. It was successful in legitimizing the group

²⁶ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 213.

²⁷ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 117.

in the eyes of southerners, and rival rebel groups in the south became largely marginalized. For example, the SPLM-United became splintered due to a conflict between its leaders Lam Akol and Riek Machar, who then created two more rebel groups which proved less effective. This in turn allowed a more united effort against the north, and by 1996 the SPLM/A was making significant gains against the northern army. The SPLM/A also had support from several northern political parties who, with the signing of the Asmara Accords in 1995, agreed to work at overthrowing Bashir and his regime. The Asmara Accords provided for a provisional government that was to be set up following the defeat of Bashir and the NIF party.²⁸

At the same time that Bashir's political rivals were aligning with southern rebels, his government faced mounting opposition from other Arab governments in the region due to the brand of radical Islam it was exporting. Sudan had supported the 1995 attempted assassination of Egyptian President Mubarak while visiting Addis Ababa in Ethiopia, and had links to several other terrorist attacks in the region.²⁹ It was becoming isolated in the international community and in 1996 a pair of United Nations Security Council Resolutions (UNSCR's) imposed harsh sanctions on Sudan. This led to the departure of Osama bin Laden from Sudan and the end of PAIC. President Bashir held sham elections in 1996, devoid of political opposition and saw expanded U.S. oil sanctions imposed on his country in 1997. In 1998, Bashir introduced a new constitution and Sharia became the sole source of legislation. Also in 1998, Bashir created the

²⁸ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 213.

²⁹ Richard A. Lobban Jr., *Global Security Watch Sudan* (Santa Barbara: Praeger, 2010), 40.

National Congress Party (NCP) out of the National Islamic Front (NIF) he had established in 1993. In 1999, Hassan al-Turabi made an attempt to pass legislation limiting the powers of the presidency. This prompted quick and harsh retribution from Bashir who declared a state of emergency, surrounded the legislature with tanks, removed al-Turabi as Speaker of the House and disbanded the National Assembly.³⁰ Once again Bashir retained his authoritarian stranglehold on the country.

In December of 1998, a historic moment occurred when oil from the southern fields flowed through a newly constructed pipeline for the first time to Port Sudan on the Red Sea. Development of the oil industry continued to be a source of anger for southerners as lands were forcefully cleared for the construction of the infrastructure by the northern forces. Several companies including Canada's Talisman faced international criticism for their participation in Sudan's oil industry which had displaced thousands of southerners from their homes.³¹ With the sale of Sudan's oil, northern investment in its military soared and by 2000, the north was making headway against the southern rebels. The IGAD negotiations were ongoing, but Khartoum was reticent to negotiate in good faith due to its military gains, and talks effectively stalled.³²

The terrorist attacks of 9/11 changed the path the IGAD talks would follow. Sudan did not want to become a target of the U.S. War on Terror, as it became clear after

³⁰ J. Millard Burr and Robert O. Collins, *Sudan in Turmoil: Hassan al-Turabi and the Islamist State* (Princeton: Markus Wiener Publishers, 2010), 317.

³¹ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 232.

³² Ruth Iyob and Gilbert M. Khadiagala, *Sudan: The Elusive Quest for Peace* (Boulder: Lynne Rienner Publishers Inc., 2006), 118.

the U.S. entered Afghanistan and prepared for Iraq that countries opposed to the American fight against terrorism would face significant consequences, not just economic sanctions. The government in Khartoum began to bargain in earnest for peace with the south. The Machakos Protocol was signed in July of 2002, and became the first of six protocols incorporated into the CPA which was signed on the 9th of January 2005.

Race and Religion in Sudan

As demonstrated, the issues of Afro-Arab (northern) dominance of political and economic power in Sudan, and the forced Islamization and Arabization of all Sudanese peoples were the two principal sources of the North-South divide in Sudan. It will be shown later in the paper that this historical divide has greatly contributed to the limited degree of success in the implementation of the CPA, and in the instigation of the current war between Sudan and South Sudan.

Another point that must be understood is the historical perception of race and religion in Sudan, which is different from the western perspective of race and religion. Race and religion in Sudan are not absolute. Race and religion in Sudan is somewhat determined by the self-identification of the individual.³³ This is possible because intermarriage between the original Arab immigrants and the traditional Sudanese peoples have resulted in a hybridized Afro-Arab race in northern Sudan. The Afro-Arabs are largely Muslim, but they differ in appearance from the Bedouin Arabs of the Middle East. In the north, there is value to being Arab, as they dominate the positions of power and authority. To reinforce their Arab heritage, some Afro-Arabs attempt to trace their

³³ Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford: Oneworld Publications, 2007), 3.

lineage to the Prophet Muhammad in order to legitimize their Arab lineage.³⁴ Because race is not clearly defined by appearance due to the many hybridized peoples in Sudan, one can self-identify as an Arab by being a devout Muslim and speaking Arabic. It can be said that “In contemporary times, to be ‘Arab’ refers to being a Muslim, speaking Arabic as the mother tongue, and having adopted elements of the Arab culture.”³⁵

The Black African population in Sudan faced a difficult situation prior to secession. If they attempted to self-identify as Arabs by speaking Arabic and becoming devout Muslims, they were still treated as second class citizens by northerners who claimed a more legitimate Arab heritage. If the Black Africans decided to emphasize their differences from the Arabs and self-identify with their African heritage, they were simply excluded from the system.³⁶

Thus one’s religion plays a role in one’s self-identification of race in Sudan, and regardless of the fact that this does not follow established sociological norms, these racial issues are a reality for the peoples of Sudan. “Although this racial divide has no scientific relevance, we cannot deny its role as a trigger for political and social behavior.”³⁷ In summary, the history of northern Sudanese exploitation of southern peoples, the forced Islamization and Arabization of all peoples in Sudan, and the unique perception of race within the country, are critical factors in order to understand the

³⁴ Federal Research Division Library of Congress, *Sudan, a Country Study* (Washington, DC: U.S. Government Printing Office, 1992), 73.

³⁵ Elke Grawert, “Theoretical Outcomes,” In *After the Comprehensive Peace Agreement in Sudan*, ed Elke Grawert, 265-284 (Woodbridge: James Currey, 2010), 271.

³⁶ Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford: Oneworld Publications, 2007), 5.

³⁷ *Ibid.*, 11.

situation in which Sudan found itself during the Interim Period of the CPA, and in order to appreciate the ongoing issues between Sudan and South Sudan in 2012.



Figure 1.0 Map of Sudan and South Sudan
Source: CIA Maps and Publications www.cia.gov

CHAPTER 2 - The Comprehensive Peace Agreement (CPA)

It is imperative to understand the major details of this agreement in order to understand the problems involved in its implementation. It may be said that it was an incredible feat by the negotiators and the mediators alike to have an agreement of any kind signed between north and south, and this is undoubtedly true. Although it can be argued that the CPA was a flawed document that was not specific enough to provide for proper implementation, it will instead be shown that the CPA was somewhat vague by design in order to permit flexibility. It relied heavily on the goodwill and driving force of two talented political personalities who developed a mutual respect for one another over the course of the negotiations in order for successful implementation to occur. These negotiators were Ali Osman Taha from the north and Dr. John Garang of the south. It will be shown that with the death of Dr. Garang six months after the signing of the agreement, Taha's influence in the northern government was reduced, the new leader of the southern government favoured secession, and hope was largely lost for the unity of Sudan. The vaguaries of the CPA, were then used to inhibit the proper implementation of the CPA, leaving major issues unresolved that have brought Sudan and South Sudan to war in 2012. The CPA was not fundamentally flawed, it was simply a compromise that required goodwill between the northern and southern governments to fully implement.

The CPA was signed on the 9th of January 2005 in Nairobi, Kenya, by the GOS and the SPLM. Although the lines between the Movement and the Army are so blurred that the entity is often referred to as the SPLM/A, the CPA refers to the SPLM as the political wing and the SPLA as the armed forces. The CPA is actually composed of six

protocols signed between July 2002 and May 2004, as well as the Ceasefire Agreement and Implementation Modalities which were signed in on the 31st of December 2004 under intense pressure from the UNSC. With the final signatures on the CPA, Sudan's second civil war, which had been ongoing since Numeiri's abrogation of the Addis Ababa Agreement in 1983, was ended.

Chapter 1 of the CPA is the "Machakos Protocol" which was the first protocol to be signed between the GOS and the SPLM in July 2002. Its fundamental success was the agreement that there would be freedom of religion and equal rights for all citizens of Sudan, and that Sharia legislation would only be applicable to the north. The parties also agreed to allow a referendum for southern self-determination to occur after the six year Implementation Period of the agreement, although it was agreed that the parties would work to promote unity as the preferred option. It gave the right of the south Sudanese to govern themselves and to participate equitably in the National Government. This was a general protocol that sought to settle basic disagreements that had thwarted so many prior attempts to make peace.

Chapter 2 of the CPA contains the "Protocol on Power Sharing" that was signed on the 26th of May 2004. This protocol outlined the basic structure of the interim government during the six year Interim Period. It specified that the national government would be named the Government of National Unity (GONU) and would be composed of a Legislature, an Executive and a Judiciary. Southern Sudan was to have autonomy in the form of a Government of Southern Sudan (GOSS). Throughout the entirety of Sudan there would be state and local governments, although southern state government would report nationally through the GOSS. It stated that there would be an Interim National

Constitution which would be the supreme law of the nation and that the Southern Sudan Constitution and all state constitutions must comply with the Interim National Constitution. This protocol clearly specified that all citizens would have equal human rights and outlined the various international human rights treaties that would be respected by all levels of government in Sudan. The protocol further outlined specific human rights that would be respected including: the right to life, personal liberty, freedom from slavery, freedom from torture, right to a fair trial, the right to privacy, freedom of religion, freedom of expression, freedom of assembly and association, freedom to have a family and marry, the right to vote, equality before the law, freedom from discrimination, freedom of movement, the rights of children and the equal rights of men and women.

The “Protocol on Power Sharing” also stated that there would be a census by the end of the second year and elections by the end of the third year of the Implementation Period. It specified the composition of the GONU to ensure appropriate southern representation within government. For example, the Institution of the Presidency (one component of the Executive) would consist of a Sudanese President, who would be the Commander-in-Chief for the Sudan Alliance Forces, and a southern Sudanese Vice President that would also be the SPLM Chairman and Commander-in-Chief of the SPLA. The protocol affirmed that Khartoum would remain Sudan’s capital city and that both Arabic and English would be used by the government, although the document named Arabic as the “widely spoken national language in Sudan”, despite English being the primary language of government in the south.³⁸ The protocol finished with the composition and powers of both the GOSS and state governments.

Chapter 3 contains the “Protocol on Wealth Sharing” signed on the 7th of January 2004. This protocol was most significant for delineating the splitting of oil revenues, since this revenue was the primary source of funding for both the northern and southern governments. It specified that 2% of the net revenue from oil would be given to the state and region the oil was taken from, and out of what was left 50% would go to the GOSS and 50% would go to the National Government and states in northern Sudan. It established a National Petroleum Commission (NPC) to formulate policies and strategies, to negotiate and approve all contracts, and to develop regulations and procedures. It also established a Fiscal and Financial Allocation and Monitoring Commission (FFAMC) to provide transparency and monitoring to the oil revenue sharing process.

Sharing of non-oil revenue such as taxes by different levels of government was also specified and a National Land Commission was established to arbitrate land claims. It must be noted that this protocol did not address the ownership of land and subterranean natural resources, but contained the agreement that the issue would be resolved in the future.

Chapter 4 contains the “Protocol on the Resolution of the Conflict in the Abyei Area”. It gave Abyei a special status, acknowledging it as a “...bridge between the north and south, linking the people of Sudan.”³⁹ Abyei was to be part of both Western Kordofan State (northern Sudan, was split into North Kordofan State and South Kordofan State in 2005) and Bahr el Ghazal State (southern Sudan) and would have its oil revenue

³⁸ The Government of the Republic of The Sudan and The Sudan People’s Liberation Movement / Sudan People’s Liberation Army, *The Comprehensive Peace Agreement* (Signed 9 January 2005), 26.

³⁹ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 65.

split using a different formula. The protocol stated that at the end of the six year Interim Period, and simultaneously with the referendum for self-determination in southern Sudan, Abyei residents would have a referendum in order to choose between retaining special administrative status in the north or becoming part of Bahr el Ghazal. This ballot would take place with the same two options regardless of the outcome of southern Sudan's referendum on self-determination. The protocol also declared that "the January 1, 1956 line between north and south will be inviolate except as agreed above."⁴⁰ As of March 2012, the Abyei referendum on self determination had not taken place, nor was scheduled to take place due to a dispute that will be discussed further on.

Chapter 5 of the CPA contains the "Protocol for the Resolution of the Conflict in Southern Kordofan / Nuba Mountains and Blue Nile States". Southern Kordofan and Blue Nile states lie north of the January 1, 1956 line, and this protocol did not provide for a referendum on self-determination for these states as was the case with Abyei. Rather, this protocol called for popular consultation of the peoples of these states on the implementation of the CPA, and this popular consultation was to be through their democratically elected state legislatures. Each state was to establish a Parliamentary Assessment and Evaluation Commission to study and evaluate the implementation of the CPA and report to the legislatures. Yet another commission was to be established by the Presidency to study the CPA implementation in these two states and report back to the National Government. In the end, the protocol stated that once the CPA is "endorsed by

⁴⁰ *Ibid.*, 66.

the people through the legislature of any of the two States as meeting their aspirations, then the agreement becomes the final settlement of the political conflict in that State.”⁴¹

Security of the South Kordofan and Blue Nile States was to be the sole responsibility of the SAF and therefore there was no doubt that these states belonged to the north. This protocol lacks specificity in favour of flexibility. There was a recognized need for popular consultation on the CPA, but it was to be through the legislatures and not a referendum. It may be argued that the peoples of these two states, who had largely fought with the southerners during the civil war, were not allowed legitimate chance to determine their own future, and that their future with the north was imposed upon them. It is difficult to imagine the north would have agreed to this protocol had it allowed for the possibility of secession of these two states as well as the south. In any case, this would prove to be a source of discontent following the Interim Period.

Chapter 6 of the CPA contains “The Protocol on Security Arrangements”. It was an agreement by both parties that there would be two separate militaries in the sovereign nation of Sudan. It stipulated that the SAF would remove all of its forces from the south and thereafter remain north of the January 1, 1956 line, while the SPLA would remove all of its forces from the north and thereafter remain south of that same line. The only exception was to be the Joint Integrated Units (JIU’s) which would maintain security in the border region and would be composed of half SAF, half SPLA troops. These JIU’s were to form the foundation of the post-referendum army in Sudan unless the south seceded in which case the units would dissolve and the troops would move back to their

⁴¹ *Ibid.*, 74.

home country. The JIU's were sizable, with a total of 24,000 troops in southern Sudan, 6,000 in South Kordofan State, 6,000 in Blue Nile State and 3,000 in Khartoum.

The annexes to the CPA contain the permanent ceasefire and all of the implementation modalities required to implement the protocols.

The CPA, Flawed or Flexible?

A fundamental issue with the CPA pertains to its lack of guidance on how the parties were to make unity an attractive option by the end of the Interim Period. It can be argued that the document was flawed by its vagueness. As we have seen in Chapter 1, the history of northern dominance of the south, the north's attempts at Islamization and Arabization, and the bloody civil wars that lasted from 1956 until 1972 and from 1983 until 2005 killing two million people,⁴² all pointed to the fact that convincing southerners that unity was the best option was at best an uphill battle. In light of Sudan's modern history, the argument that the CPA was overly vague and allowed for the agreement to be sabotaged by Bashir and his NCP shows some merit.

What is more likely is that the CPA needed to be vague or it would never have been signed by both parties. The CPA was negotiated by Dr. John Garang of the south and Ali Osman Taha of the north over a 15 month period in Naivasha, Kenya and the agreement was dependent on the goodwill of both parties during the Interim Period.⁴³ Unfortunately, the death of Dr. Garang in a July 2005 helicopter crash just six months after signing the CPA led to a significant change to the level of goodwill provided by the

⁴² Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 3.

⁴³ Timothy Carney, United States Institute for Peace, Special Report 194, *Some Assembly Required: Sudan's Comprehensive Peace Agreement*, November 2007. Report on-line; available from <http://www.usip.org/files/resources/sr194.pdf>; Internet; accessed 18 April 2012.

parties involved. Ali Osman Taha saw his influence greatly reduced in the northern government⁴⁴, and Salva Kiir who was widely believed to support separatism⁴⁵ became the leader of the GOSS. The charismatic Dr. John Garang had been a firm believer in nationalism and it has been said that "...he was the only Sudanese leader in the history of modern Sudan who for twenty-five years consistently advocated, plotted, and fought for a democratic, secular, and unified Sudan."⁴⁶ Without Dr. Garang's leadership, without the influence of Ali Osman Taha, and given the flexibility inherent in the CPA, it appears secession became a foregone conclusion. The flexibility of the agreement was then used to sabotage its implementation.

Several key provisions of the CPA were used to impede its proper implementation. "Despite the lengthy process and the voluminous package of detailed agreements, the CPA left unanswered many questions, gaps and loopholes. Some are central to the immediate phase of peace building."⁴⁷ One example, is that although the CPA dictated the percentage of southern representation within each part of the national government, it did not specify which positions would be occupied by southerners. Southern politicians got the least meaningful ministries while the NCP maintained control of all key portfolios except Vice President.⁴⁸ A second example, is that although

⁴⁴ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 202

⁴⁵ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 131.

⁴⁶ Robert O. Collins, *A History of Modern Sudan* (Cambridge: Cambridge University Press, 2008), 271.

⁴⁷ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 118.

⁴⁸ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 203.

specific percentages for oil revenue sharing were given, no direction was given on how the parties could spend the money. The SPLM/A spent 40% of its budget on its military when the CPA took effect, and the north continued to maintain its army at full strength.⁴⁹

Another criticism of the CPA is the asymmetric nature of the Protocol on Power Sharing. This protocol gave the right for the south to form its own government and have representation in the GONU, while the north did not have the right to participate in southern government. Furthermore, there was proportional representation given to southerners without proportional representations given to the people of Darfur or eastern Sudan (South Kordofan and Blue Nile States), which served to alienate other peoples within Sudan.⁵⁰

It may be said that “In assuming that unity could be made attractive, the CPA did not prepare the country for an attractive separation, even though the provision for a Southern Sudan referendum assumed the possibility of both scenarios.”⁵¹ It has been demonstrated that the CPA was not flawed, but was inherently flexible which encouraged the northern and southern governments to sign the document. It was largely based on the goodwill of its two primary negotiators, and when Dr. Garang died in an unfortunate accident, the goodwill ceased and the vagaries of the agreement were used to impede its implementation.

⁴⁹ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 205.

⁵⁰ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 124.

⁵¹ Concordis International, *More Than a Line: Sudan's North-South Border, Report Prepared for the United States Institute of Peace* (September 2010), 8. Report on-line; available from www.usip.org; Internet; accessed 25 January 2012.



Figure 2.0 Map of Oil Fields and Pipelines in Sudan and South Sudan
 Source: The Guardian www.guardian.co.uk

CHAPTER 3 - Implementation of the CPA

During the Interim Period between 2005 and 2011, several parties were involved in the implementation of the CPA. The parties to be considered include UNMIS, the GONU, the GOSS which was composed primarily of the SPLM/A, and President Bashir and his NCP. It will be shown that the GONU was ineffective in promoting national unity, that the UN's assistance was flawed, that Bashir and his NCP were hostile to CPA implementation, and that the GOSS lacked the capacities required for CPA implementation. Following this, specific issues of discontent during the Interim Period will be discussed including border demarcation, oil revenue, the region of Abyei, South Kordofan and Blue Nile States, and the 2010 National Elections. It will then be shown that unilateral American involvement was a factor in allowing the south's referendum on self-determination to take place as scheduled following the north's invasion of Abyei on the 21st of May 2011⁵².

United Nations Mission in Sudan (UNMIS)

UMIS was established by UNSCR 1590 on the 24th of March 2005. The following is a summary of the UNMIS mandate as directed in UNSCR 1590:

1. Support the implementation of the CPA by monitoring the ceasefire, observing and monitoring armed groups, promoting the peace process, developing the police force, and providing technical assistance in the conduct of elections and referanda;

⁵² Unsigned, "Sudan's Abyei Crisis: Deal or no Deal," *Sudan Tribune*, 13 June 2011, Internet; available at <http://www.sudantribune.com/Sudan-s-Abyei-crisis-Deal-or-no,39206>, Accessed 13 June 2011.

2. Assist with refugees and Internally Displaced Persons (IDP's);
3. Demining assistance; and
4. Promoting human rights, particularly the rights of vulnerable groups.

Clearly the UNMIS mandate was not to promote national unity, this was the responsibility of the GONU and the GOSS once the CPA was signed. The UNMIS mandate was also not to force the parties to implement the CPA, but to provide technical expertise and humanitarian assistance.

UNMIS was a significant UN mission, although smaller than the African Union/United Nations Hybrid operation in Darfur (UNAMID). It consisted of over 10,000 uniformed personnel (military and police) and over 4,000 civilians by the time the mission ended on the 9th of July 2011.⁵³ The military forces that UNMIS deployed had a Chapter VII mandate to protect not only UN personnel and facilities but "...civilians under imminent threat of physical violence."⁵⁴ Chapter VII of the UN Charter provides for the strongest UN mandate possible. The mission cost \$5.76 billion U.S. dollars USD⁵⁵ over approximately six years, or approximately \$1 billion USD per year. Although the number of personnel and the amount of money involved is significant, UNMIS had a huge Area of Responsibility of over 800,000 square kilometers including

⁵³ United Nations Mission in Sudan, "UNMIS Facts and Figures," <http://www.un.org/en/peacekeeping/missions/unmis/facts.shtml>; Internet; accessed 18 April 2012.

⁵⁴ United Nations Security Council, *Resolution 1590 (2005)*, Adopted 24 March 2005 (New York: UN, 2005), 6.

⁵⁵ United Nations Mission in Sudan, "UNMIS Facts and Figures," <http://www.un.org/en/peacekeeping/missions/unmis/facts.shtml>; Internet; accessed 22 June 2004.

all of what is now South Sudan, Blue Nile State, South Kordofan State and the Abyei Region.

An excellent source listing the challenges remaining late in the Interim Period of CPA implementation is a UN document entitled “The Special Report of the Secretary-General on the Sudan” which was written in May 2011, just prior to the secession of South Sudan. It must be noted that none of these issues can specifically be attributed to a failure of UNMIS as they were largely failings of the northern and southern governments. The report listed the following outstanding issues related to the CPA:

1. The border due to a desire of both parties to control and protect oil and mineral rich areas, as well as localized issues of access to water and grazing land;
2. Popular consultation in South Kordofan and Blue Nile States which had not taken place;
3. SPLA integration in that there were 40,000 SPLA troops in South Kordofan and Blue Nile States that had not been absorbed into the SAF nor relocated south of the 1 Jan 1956 border;
4. Abyei as the boundaries remained contentious, there was a disagreement over who could participate in the referendum despite a Permanent Court of Arbitration (PCA) ruling, and disagreement on wealth sharing (Note that ironically the SAF took control of Abyei after a bloody attack on 21 May 2011, just three days after this report was tabled); and
5. Negotiation on post CPA arrangements such as security, debt, oil revenues and fees, ownership of oil infrastructure, currency and citizenship.

The report concluded that oil revenue sharing and the Abyei issue were the key of the aforementioned unresolved issues, and the most likely to spoil North-South relations.⁵⁶

The most significant criticism of UNMIS was its seeming inability or unwillingness to use its Chapter VII mandate to protect civilians in imminent danger. Abyei was overrun twice while UNMIS maintained a presence in the region. The first instance occurred in May of 2008, after a shooting incident between SPLA and SAF forces, the fighting escalated over several days, culminating in a tank battle and the destruction of the city of Abyei (except for its mosques), and the displacement of 50,000 people.⁵⁷ Although UNMIS was clearly not equipped to deal with a tank battle, following this incident UNMIS implemented a new strategy for the protection of civilians (POC) entitled *UNMIS POC Strategy-Security Concept* in order to educate UNMIS personnel on their role. Following the implementation of this strategy critics said that “The UNMIS model - which features a POC section – has not yielded mission-wide prioritization of the protection of civilians but does provide capacity for coordination and reporting.”⁵⁸

The continued inability to protect civilians became evident once again following a second incident in Abyei on the 19th of May 2011. This incident occurred after the referendum on self-determination that was held in January 2011, but prior to South Sudan’s independence. The SAF alleged that an SPLA soldier killed several SAF

⁵⁶ United Nations Secretary General. *Special Report of the Secretary General on the Sudan*, Reissued 20 May 2011 (New York: UN, 2011), 6.

⁵⁷ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 206.

⁵⁸ Victoria Holt and Glyn Taylor with Max Kelly. *Protecting Civilians in the Context of UN Peacekeeping Operations* (New York: UN, 2009), 190, 193.

soldiers travelling in a convoy on this date. The SAF account is disputed due to an alleged buildup of SAF troops in the Abyei area during the four month period prior to the incident. Two days after the shooting incident, on the 21st of May 2011, the region was overrun by SAF troops using the alleged shooting incident as justification. The SAF took control of Abyei displacing 110,000 people and causing extensive damage and looting (this incident displaced more than twice the number of the Abyei invasion in May 2008). Despite having a Chapter VII mandate, "...UNMIS-Abyei remained confined in its headquarters during the assault on Abyei town and did not intervene to protect civilians and their property from militia attacks during the assault."⁵⁹ Realistically, for UNMIS troops to have done otherwise would have been suicide, and the SAF deserves blame for mounting a massive invasion of a territory in clear violation of the CPA.

It is most likely that UNMIS was a victim in this incident in that it had a mandate but not the means to protect the population. The SAF attack used ground attack and bomber aircraft as well as tanks and artillery, which the UNMIS forces were not able and thus unwilling to defend against. In any case there was intense criticism levelled at UNMIS, with the GOSS stating that the UNMIS decision to do nothing to protect civilians in Abyei during this invasion by SAF forces stemmed from a pattern of disinclination to use its Chapter VII mandate.⁶⁰

⁵⁹ Small Arms Survey, "Sudan Human Security Baseline Assessment (HSBA)," <http://www.smallarmssurveysudan.org/pdfs/facts-figures/abyei/HSBA-Abyei.pdf>; Internet; accessed 4 March 2012.

⁶⁰ Toby Collins, "UK's House of Lords Discuss Military Intervention in Abyei," *Sudan Tribune*, 31 May 2011, Internet; available at <http://www.sudantribune.com/UK-s-House-of-Lords-discuss.39021>, Accessed 4 March 2012.

UNMIS is perhaps an easy target for assessing blame in the implementation of the CPA during the Interim Period; however, the fact remains that South Sudan became an independent nation on the 9th of July 2011. The southern referendum and subsequent secession was only possible with the technical assistance of the UN, and even the northern government accepted the results. This is strong evidence that despite any difficulties, the UNMIS mission was ultimately successful, albeit with the help of unilateral American actions, particularly in the final stages. Although UNMIS was not able to facilitate the resolution of major issues such as border demarcation and oil revenue sharing, it was the obstinance of the two major parties involved in the CPA implementation that was to blame. UNMIS simply did not have the mandate or ability to force the parties to agree to a solution and was caught in between two unwilling partners.

Government of National Unity (GONU)

Another actor involved in the CPA implementation was the GONU, which specifically had a mandate to “...implement an information campaign throughout Sudan in all national languages to popularize the Peace Agreement, and to foster national unity, reconciliation and mutual understanding.”⁶¹ The GONU was the national government composed of the Executive (the Presidency and the Council of Ministers), the National Legislature (the National Assembly and the Council of States), the Judiciary and other Institutions and Commissions. The composition of the Council of Ministers and the National Assembly was 52% NCP, 28% SPLM, 14 % other northern parties and 6% other southern parties. The idea was that the GONU, with its diverse representation working

⁶¹ The Government of the Republic of The Sudan and The Sudan People’s Liberation Movement / Sudan People’s Liberation Army, *The Comprehensive Peace Agreement* (Signed 9 January 2005), 25.

together, would be able to promote national unity as the preferred outcome of the referendum on southern self-determination.

According to the “Protocol on Power Sharing” contained in the CPA, the GONU was to be a national institution that would champion unity and present conditions that would favour unity as the result of the southern referendum on self-determination. In this endeavour, the GONU completely failed. Hilde Johnson, a former Norwegian Minister for International Development and a key player in the CPA negotiations, states that one of the GONU’s failures was an uneven distribution of power between north and south within this government. Bashir and his NCP kept control of all of the major ministries including National Security and those ministries crucial to the economy and oil industry. Furthermore, Bashir had effective control of the positions of state power that were instrumental in the implementation of the CPA.

Hilde Johnson also states that even many of the southerners appointed to the GONU, were not supporters of national unity.⁶² After Dr. Garang’s death in the summer of 2005 and the subsequent appointment of Salva Kiir, this is most likely correct. With the north effectively controlling the GONU and already beginning to use delaying tactics in the implementation of the CPA, and many southern members of the GONU not in favour of unity, the GONU was ineffective as a vehicle for promoting a unified Sudan. The GONU, which would ideally have functioned as a single entity promoting the unity of Sudan, ended up as a dysfunctional forced amalgamation of the north and south with Bashir and his NCP on one side, and the GOSS and SPLM/A on the other.

⁶² Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 203.

Bashir and the NCP

Good governance and co-operation with the south could hardly have been expected from a government led by a sitting president with an arrest warrant issued by the International Criminal Court (ICC). In March of 2009 Omar Bashir was formally indicted by the ICC for genocide, crimes against humanity and war crimes in Darfur. If this was not enough, there are two other sitting members of the NCP also indicted by the ICC. In April 2007 Ahmed Haroun was indicted for crimes against humanity and war crimes, yet despite this arrest warrant he continued to serve as the Minister of State for Humanitarian Affairs until he became governor of South Kordofan in May 2009. The third ICC indictee is Abdel Rahim Hussein who was indicted in March 2012, also for crimes against humanity and war crimes, and who continues to act as the Defence Minister for the Republic of Sudan. These three NCP officials participated in the GONU during the CPA implementation, and continue to participate in the GOS post-secession.

Generally, the NCP can be said to have been hostile to the south and the implementation of the CPA. One notable exception was Ali Osman Taha, who had developed a strong professional relationship with Dr. John Garang and who had been instrumental in the NCP's negotiation of the CPA. With Garang's death shortly after the signing of the CPA, Taha's position of influence within the NCP diminished. Hilde Johnson said that "Previous support for the negotiation positions was conveniently forgotten; and those who wanted to scuttle the CPA through delaying tactics or less subtle means would most certainly try."⁶³ Twice during the Interim Period, once in October

⁶³ *Ibid.*, 202.

2007 and again in October 2009, the SPLM suspended its participation in national government due to the failure of the NCP to continue making progress on key CPA implementation issues including the passage of laws, referendum issues and issues of national security.⁶⁴

President Bashir and his NCP party are Islamic fundamentalists and derive their power from a base of hardliners. At best they have reluctantly implemented aspects of the CPA, usually after much prodding, as they have continued to adhere to the idea of an Islamist state and Sharia Law.⁶⁵ It has been said that “The overall impression of the implementation is negative and the foremost reason for this is the GOS’s lack of will and the SPLA’s lack of capacity to properly implement the CPA.”⁶⁶ The formation of important commissions for CPA implementation including the Electoral Commission, the Land Commission and the National Human Rights Commission were delayed. If it could be delayed, it was.

The NCP’s trepidation towards CPA implementation after the death of Dr. John Garang was also influenced by Salva Kiir, who took over the SPLM leadership following Garang’s death, and was widely seen as favouring separatism despite public declarations to the contrary. This led the NCP to be much more tepid towards full implementation of

⁶⁴ *Ibid.*, 209.

⁶⁵ Rania Hassan Ahmed, “The Implementation of Power Sharing at the National Level,” In *After the Comprehensive Peace Agreement in Sudan*, ed Elke Grawert, 51 - 61 (Woodbridge: James Currey, 2010) 55.

⁶⁶ Johan Brosche, “CPA – New Sudan, Old Sudan or Two Sudans? A Review of the CPA,” In *Post-Conflict Peace-Building in the Horn of Africa*, ed Ulf Johansson Dahre, 231-251 (Lund: Media-Tryck Sociologen Lund universitet, 2008), 231.

the agreement.⁶⁷ The NCP began to see that without Garang separation was a more likely outcome of the CPA and that Sudan's proven oil reserves would no longer be under the control of the NCP. Bashir knew that the economic fallout of losing these oil reserves could very well threaten his regime.

The NCP under the leadership of Bashir, who effectively controlled the GONU and therefore the mechanisms needed to implement the CPA during the Interim Period, was an unwilling participant and detracted from the overall CPA implementation process.

Sudan People's Liberation Movement / Army SPLM/A

Of the two signatory parties to the CPA, the SPLM/A had the most to gain from successfully implementing the agreement, as this was the only way the southern population would be able to have a referendum on self-determination. The possibility of a southern vote for unity in the referendum is widely believed to have died with John Garang six months into the six year Interim Period, although in any case it would have been difficult due to the historic exploitation of southerners by the northern government and the forced Islamization and Arabization of the southern population. Following Garang's death Salva Kiir became the President of the GOSS and the First Vice President of Sudan, and although he made public statements to the contrary, there is a general consensus that he supported separatism.⁶⁸ With southerners headed down the path towards separation, it was critical that the CPA be implemented, thus allowing the referendum to proceed.

⁶⁷ *Ibid.*, 238.

⁶⁸ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 131.

Proof of the southern desire for separation was the result of their referendum on self-determination held over a week long period in January 2011. The final voting results, which were accepted by the NCP, were 99% in favour of separation.⁶⁹ Although this vote is more typical of what one would expect in a dictatorship, it was simply a manifestation of the level of southern discontent. President Bashir and the NCP fully recognized the results of the southern referendum, lending credibility to the referendum process.

Despite the historical animosity of southerners towards the government in Khartoum due to forced Islamization and Arabization, and the economic and political dominance of the northern peoples, the one-sided result of the southern referendum can be seen as a success for the GOSS in achieving independence for South Sudan, or a failure of the GOSS to promote unity as a positive outcome as envisioned by Taha and Garang. The GOSS did little throughout the Interim Period to improve the lives of the southern population, and because southerners saw no betterment in their lives they had no reason to trust the northern government any more than they did during the civil war. The blame for this lack of improvement in the lives of southerners must be partly blamed on the southern government.

During the Interim Period there was a lack of appreciable progress on education, health care, and infrastructure for the southern peoples; thus there were not enough tangible results to show the people that the implementation of the CPA was working and

⁶⁹ Unsigned, "Khartoum Accepts Secession Results," *Al Jazeera*, 31 January 2011, Internet; available at <http://www.aljazeera.com/news/africa/2011/01/2011131173810198363.html>. Accessed 25 Mar 2012.

that their lives were better for it.⁷⁰ As will be shown, the failure to significantly increase the quality of life for southerners was due to five main factors, GOSS military spending, GOSS corruption, a lack of international donor aid, a failure to improve the security situation, and a lack of capacity for the GOSS to govern.

Firstly, the GOSS, controlled by the SPLM/A, spent approximately 40% of its budget on its military.⁷¹ The reasoning for defence as a spending priority was as a safeguard in case the CPA fell apart and there was a return to the decade's long civil war between north and south. The consequence of spending 40% of the budget on the military was that most other priorities of the GOSS suffered due to lack of funding, including education and health care.

The second reason the average southerner's life did not improve was the rampant corruption of the SPLM/A officials. I witnessed first-hand the level of corruption common throughout southern Sudan. I spent almost six months in the city of Rumbek in Lakes State during 2010, and one of the things I found most striking was the discrepancy between the government officials and the local population. Rumbek is a major southern city, and yet like most of southern Sudan most of the population lives in tukuls, which are huts that have thatch roofs and mud or thatch walls. There was no electricity, no water system and the schools were almost all decrepit. There were very few vehicles and none of the roads were paved. Despite the general poverty that existed in Rumbek, government officials built luxurious villas and drove brand new Toyota Land Cruisers. It

⁷⁰ International Crisis Group, *Sudan's Comprehensive Peace Agreement: The Long Road Ahead*, (March 2006), 10. Report on-line; available from www.crisisgroup.org; Internet; accessed 5 March 2012.

⁷¹ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 205.

was clear that the wealth was not being distributed to the population, and that government officials were getting a disproportionate share. Although I spent most of my time in Rumbek, it is clear from many reports during the interim period that what I witnessed was prevalent throughout southern Sudan. One author writes that “Two years after the CPA and the GOSS, accusations of rampant corruption created a sense of despair among Southern Sudanese.”⁷² The GOSS is finally admitting to the problem and is now taking steps in 2012 to battle the corruption it acknowledges as being a central threat to the country.⁷³

Thirdly, a lack of international donor aid exacerbated the GOSS issues of spending priorities and corruption during the Interim Period. There were promises made for aid that did not come, in part because world focus had shifted from Sudan after the cease fire was implemented in 2005, partly because aid was diverted to the conflict area of Darfur, partly owing to the difficulty of donor money getting into southern Sudan due to international sanctions imposed on the entire country, and partly due to the GOSS bureaucracy.⁷⁴

The fourth reason that southerners’ lives did not improve was the security situation. Although Salva Kiir managed to unite the SPLM/A and the South Sudan Defence Force (SSDF) with the Juba Agreement in 2006, and despite his appointment of

⁷² Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 133.

⁷³ Unsigned, “South Sudan Replaces Head of Anti-Corruption Commission,” *Sudan Tribune*, 11 Nov 2011, Internet; available at http://www.sudantribune.com/South-Sudan-president-replaces_40699. Accessed 6 Mar 2012.

⁷⁴ International Crisis Group, *Sudan’s Comprehensive Peace Agreement: The Long Road Ahead*, (March 2006), 26. Report on-line; available from www.crisisgroup.org; Internet; accessed 5 March 2012.

Paulino Matip, the leader of the SSDF, to the post of Deputy Commander-in-Chief of the SPLM/A, violence continued between militias in the south. In 2010, there were as many southerners displaced as there had been during the years of civil war due to the fighting between militias.⁷⁵ The security of the average southerner did not improve during the Interim Period, and this lack of improvement did not do anything to promote unity with the north.

The fifth and final factor in the GOSS failure to improve the quality of life for southerners was its capacity to govern. The SPLM/A was created by Garang in 1983 as a rebel movement to fight for a unified Sudan in which all citizens had equal rights and freedoms. It was a major transition from a rebel movement into a full-fledged government, and the lines between the SPLM and the SPLA were often blurred (hence referring to the organization as the SPLM/A). The SPLM/A had largely been a rebel movement and had difficulties with its capacity to govern. Hilde Johnson states of the SPLM/A that “Running a government was a different story, however, and managing significant oil revenues was yet another.”⁷⁶ The establishment of an autonomous government in southern Sudan was a challenge due to a lack of experience in governance, and meeting deadlines imposed by the CPA in addition to this proved to be difficult and at times impossible.

In this manner, it has been demonstrated that the SPLM/A became focused on separation following the death of Dr. Garang, and that the deep seeded southern

⁷⁵ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 213.

⁷⁶ *Ibid.*, 212.

animosity towards the northern government was exacerbated by the failure of the GOSS to improve the lives of southerners and to govern effectively.

To summarize the efforts of the parties involved in CPA implementation, it has been shown that UNMIS was ultimately successful in assisting with the implementation of the CPA, although it was deficient in some areas including the protection of civilians. The GONU was shown to have failed its mandate of promoting national unity. It has also been shown that Bashir and the NCP party were openly hostile to the implementation of the CPA, and that although the GOSS wanted to implement the CPA, it lacked the capacity to do so and undermined the idea of unity by not improving the lives of southerners. Next, the crucial issues pertaining to CPA implementation during the Interim Period will be examined.

Border Demarcation

Defining the entire border between the north and south was a problem left unresolved during the Interim Period, and it is a problem that continues in 2012. Although it is based on the 1 Jan 1956 line described earlier, there are several disputed areas. One of the disputed areas is the Abyei region, which the Abyei Boundaries Commission (ABC) was established to resolve. The ABC was part of the CPA Protocol on Abyei⁷⁷ and its decision was meant to be binding. In July of 2005 the commission made its final report, placing the boundary north of the town of Abyei. The decision was deemed unfair by President Bashir and the agreement was subsequently rejected by the

⁷⁷ The Government of the Republic of The Sudan and The Sudan People's Liberation Movement / Sudan People's Liberation Army, *The Comprehensive Peace Agreement* (Signed 9 January 2005), 68.

north.⁷⁸ On the 22nd of July 2009 the Permanent Court of Arbitration (PCA) at The Hague issued its decision on Abyei placing the nine Dinka Ngok chiefdoms within southern Sudan and attaching the Heglig oil field to South Kordofan (northern Sudan).⁷⁹ This has not, however, ended the dispute over the Abyei region, as will be discussed later.

A Concordis International study prepared for the United States Institute of Peace, states that approximately 20% of the north-south border is disputed, with the largest cause of border dispute being mineral resources, and oil in particular.⁸⁰ It lists the following areas as disputed: South Darfur – Western Bahr al Ghazal, South Darfur – Northern Bahr al Ghazal, the Southern Kordofan – Unity triangle, the Megenis Mountains, Abyei, Kaka, White Nile - Upper Nile, Gulli and Chali al Fil and states that “Regrettably with five months left before the scheduled Referendum, the North-South border has not yet been defined, let alone demarcated.”⁸¹ There has been no change in this endeavour to date.

It is difficult for a country to separate not knowing what its boundaries are. It is clear that border demarcation as described in Chapter IV of the CPA failed, and remains an ongoing issue which is helping to fuel the current low-intensity conflict embroiling Sudan and South Sudan.

⁷⁸ Richard A. Lobban Jr., *Global Security Watch Sudan* (Santa Barbara: Praeger, 2010), 45.

⁷⁹ Unsigned, “International Community Welcomes Abyei Ruling, Urges Implementation,” *Sudan Tribune*, 23 July 2009, Internet; available at <http://www.sudantribune.com/International-community-welcomes,31912>. Accessed 5 March 2012.

⁸⁰ Concordis International, *More Than a Line: Sudan's North-South Border, Report Prepared for the United States Institute of Peace* (September 2010), 13. Report on-line; available from www.usip.org; Internet; accessed 25 January 2012.

Oil Revenue Sharing

The CPA laid out specific regulations for the partition of southern oil revenue between the GOSS and the GONU. The majority of Sudan's oil is contained in the southern area with estimates on the exact percentage belonging to the south generally ranging between 75 and 80%, depending on the source. As previously mentioned, the Protocol on Wealth Sharing allocated 2% of the net oil revenues to the state or region in which the oil was located and evenly split what was left of the net oil revenues between the GONU and the GOSS. There was a different oil sharing arrangement for Abyei contained in the "Protocol for The Resolution of the Abyei Conflict" which gave 50% of net oil revenues to the GONU, 42% to the GOSS, and 2% to each of the following: Bahr el Ghazal Region, Western Kordofan, the Dinka Ngok people and the Misseriya people. This distinct from the sharing agreement contained in the protocol for the remainder of southern Sudanese oil production. There was also to be a Future Generation Fund established once oil production reached a benchmark of two million barrels per day. It must be noted that this oil sharing arrangement only applied to oil fields contained in southern or GOSS territory, there was no provision for sharing of revenue from oil fields in the north.

In theory, oil revenue sharing was a simple matter of determining the net oil revenue and dividing the money appropriately. In practice, oil sharing was anything but a simple matter. There was a lack of oil production data provided to the south in order for the GOSS to determine if it was getting its fair share, there were disagreements on the location of the border and thus which fields belonged to the south, and the National Petroleum Commission created by the CPA in order to monitor oil sharing proved

⁸¹ *Ibid.*

ineffective.⁸² To fully comprehend the implications of oil revenue sharing, it must be understood that the GONU relied on oil revenue for 60% of its budget, while the GOSS relied on oil revenue for 98% of its budget (2008 figures).⁸³

Oil sharing was a significant issue during the Interim Period, and was not implemented transparently or in good faith. The GOSS was disadvantaged due to the continued control of the oil industry by the north and a lack of access to necessary data on production. It is clear that oil sharing is another area of flawed CPA implementation that was left unresolved. An interesting point about the dispute over oil sharing, is that the “Emphasis on the sharing of the newly realized non-renewable wealth overshadowed the central issue of wealth creation.”⁸⁴ In the end, oil is a non-renewable resource, yet the focus on this resource has prevented both sides from developing more sustainable sources of income.

Abyei

One of the issues pertaining to the Abyei region has already been discussed, that of border demarcation. There was a second issue that came to light following the PCA ruling on Abyei, which had to do with the participation of the Misseriya peoples in the Abyei referendum on self-determination scheduled to take place at the same time as the southern referendum on self-determination. The PCA decision upheld the CPA protocol

⁸² International Crisis Group, *Sudan's Comprehensive Peace Agreement: The Long Road Ahead*, (March 2006), 7, 8. Report on-line; available from www.crisisgroup.org; Internet; accessed 5 March 2012.

⁸³ Concordis International, *More Than a Line: Sudan's North-South Border, Report Prepared for the United States Institute of Peace* (September 2010), 19. Report on-line; available from www.usip.org; Internet; accessed 25 January 2012.

⁸⁴ Ibrahim Elnur, *Contested Sudan: The Political Economy of War and Reconstitution* (New York: Routledge, 2009) 120.

on Resolution of Conflict in Abyei Area which stated that the Misseriya tribes had full freedom of movement in the Abyei area in keeping with traditional grazing rights, although most of the land including Abyei town were given to the Dinka Ngok. The SPLM/A then took the position that the Misseriya would not be allowed to vote in the Abyei referendum, while the Misseriya with support from the north have threatened to forcefully stop any referendum in Abyei that does not allow them to participate.⁸⁵

There are historical hostilities in the Abyei region. The Misseriya were one of the peoples armed by the north during the civil war, and militia attacks on the Dinka people were particularly horrific, so there is great animosity between the two peoples. The GOS and the GOSS both have vested interests in the participation of the Misseriya in a referendum, because if the Misseriya are allowed to vote, it is more likely that the outcome will be in favour of joining the north and therefore a significant source of oil would be gained. In the end, this impasse prevented the Abyei referendum from taking place on schedule with the southern referendum. Instead, on the 21st of May 2011, the north invaded Abyei under the pretense of retaliation for a shooting incident by an SPLA soldier. Following the north's invasion, UNSCR 1990 established a new mission in Abyei called the United Nations Interim Security Force for Abyei (UNISFA), composed of 4,200 Ethiopian troops with a mandate to monitor the north's redeployment from Abyei.⁸⁶

⁸⁵ Ngor Arol Garang, "Abyei's Misseriya Slam SPLM Over Their Voting Rights, Ethiopia Talks Falter," *Sudan Tribune*, 8 October 2010, Internet; available at <http://www.sudantribune.com/Abyei-s-Misseriya-slam-SPLM,36531>. Accessed 6 March 2012.

⁸⁶ United Nations Security Council, *Resolution 1990 (2011)*, Adopted 27 June 2011 (New York: UN, 2011), 1.

Unfortunately, northern forces are still present in Abyei, and South Sudan has stated that the removal of these forces is a prerequisite for their relinquishment of the Heglig oil field (see Fig 3.0 on page 59) seized on the 10th of April 2012.⁸⁷ Quite obviously, the Abyei region and its issues have been a failure of CPA implementation.

South Kordofan and Blue Nile States

Historically, South Kordofan State which contains the Nuba Mountains, and Blue Nile State have been on the periphery and isolated from Sudan's northern government, hence their peoples have been marginalized. The Nuba Mountains were a place for persecuted peoples to flee and find refuge from northern forces particularly during campaigns of ethnic cleansing that took place in the Nuba Mountains in the 1980's.⁸⁸ The Nuba peoples are primarily Muslim, and it should be noted that the violence in this area has been Muslim against Muslim violence. It was the history of persecution by the central government in Khartoum that caused the peoples of South Kordofan and Blue Nile states to fight alongside the SPLM/A against the north during the civil war starting in 1983.⁸⁹

During the Interim Period, the CPA allowed for the SPLM's interest in South Kordofan and Blue Nile States by giving the SPLM a 45% representation in both state governments, as specified in the protocol on Resolution of Conflict in South Kordofan

⁸⁷ Unsigned, "No Negotiations With South Sudan Before Withdrawal From Heglig, Bashir Tells Egypt," *Sudan Tribune*, 15 April 2012, Internet; available at <http://www.sudantribune.com/No-negotiations-with-South-Sudan.42268>. Accessed 18 April 2012.

⁸⁸ Ruth Iyob and Gilbert M. Khadiagala, *Sudan: The Elusive Quest for Peace* (Boulder: Lynne Rienner Publishers Inc., 2006), 32.

⁸⁹ Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford: Oneworld Publications, 2007), 14.

and Blue Nile.⁹⁰ The problems in these states commenced in earnest after the elections that were held in May of 2011 in Blue Nile and South Kordofan States. These elections were part of the national elections that had been held in the rest of Sudan more than a year earlier in 2010, but which had been delayed due to disputes. The results of both elections proved problematic, South Kordofan's election was won by Ahmed Haroun (indicted by the ICC as a war criminal) but whose victory was disputed by the SPLM in the state, while in Blue Nile State the election was won by the SPLM candidate Malik Aggar.

There were three significant issues following the elections. Firstly, the SPLM in South Kordofan abandoned the state government leaving a void, and violence by the SPLM's supporters in protest of the election result started almost immediately.⁹¹ Secondly, Blue Nile state had an SPLM government in a region that was to become part of the north when South Sudan seceded on the 9th of July 2011. The third problem was the SAF deadline of 1 June 2011 for the SPLA to withdraw all of its forces south of the January 1st 1956 border in preparation for secession. This was extremely problematic and proved insurmountable due to the composition of the SPLA in these two states. The SPLA in Blue Nile and South Kordofan States was not composed of southerners in northern territory, it was composed of indigenous "northern" people that were not going

⁹⁰ The Government of the Republic of The Sudan and The Sudan People's Liberation Movement / Sudan People's Liberation Army, *The Comprehensive Peace Agreement* (Signed 9 January 2005), 79.

⁹¹ United Nations Mission in Sudan, *UNMIS Report on the Human Rights Situation During the Violence in Southern Kordofan Sudan*, Issued June 2011; http://southsudaninfo.net/wp-content/uploads/reference_library/reports/unmis_report_hr_south_kordofan.pdf; Internet; accessed 6 Mar 2012.

to leave their homeland and relocate to the south.⁹² When the June deadline passed, the SAF elected to attempt to disarm the remaining SPLA in South Kordofan and Blue Nile states and war erupted. Post-secession details of the conflict in these states will be covered in Chapter 4.

2010 National Elections

The national elections were held to fill national positions in the GONU. They were held in April of 2010, eight months prior to the referendum on self-determination that was held in January of 2011. The purpose of these elections was to elect a presidency and the National Assembly. In the event that the south seceded, the elected officials in the south would then move from the GONU to form the GOSS. The election for the presidency failed to meet expectations when the southern candidate, Salva Kiir, withdrew from the election in protest and northern parties boycotted the election.⁹³

Despite the lack of southern participation in the national aspect of the elections, there were problems with the election in the southern states themselves. Several governorships were awarded amid controversy which led to violence. In Jonglei State, General George Athor rebelled after claiming to have won the governorship as an independent candidate. He was an SPLA general who was not given the SPLM appointment to run in the election and instead chose to run as an independent. Upon losing the race, he protested the result, and when it was determined that the results would stand he took his militia with him and started a rebellion. His rebellion upset the peace in

⁹² Unsigned, "SAF Gives Sudan's SPLA ultimatum to withdraw from Blue Nile & South Kordofan," *Sudan Tribune*, 29 May 2011, Internet; available at <http://www.sudantribune.com/SAF-gives-Sudan-s-SPLA-ultimatum,39052>. Accessed 6 Mar 2012.

⁹³ Hilde F. Johnson, *Waging Peace in Sudan* (Thornhill: Sussex Academic Press, 2011), 209.

Jonglei state and caused many deaths until he was killed by the SPLA in December 2011.⁹⁴

There were also problems with the elections in South Kordofan and Blue Nile States as they were not held until over a year after the rest of the country had voted. Although both the Carter Center and the EU found the conduct of the national elections to be below international standards, ex-U.S. president Jimmy Carter stated that the international community would recognize the results.⁹⁵ The truth was that as many problems as there were, this was the best outcome that could have been expected from a country that had not had proper national elections since 1986; however, they are another example of difficulties implementing the CPA during the Interim Period.

Unilateral American Actions

Although not a failure of CPA implementation, it is important to understand the role played by the American government in pressuring Sudan to hold the referendum on southern self-determination by offering incentives to Sudan if the referendum took place. In November of 2010, the U.S. sanctions on Sudan were renewed for another year; however there was a promise to review the decision if Sudan made progress in CPA implementation and in Darfur.⁹⁶ The American government also offered to remove

⁹⁴ Unsigned, "General Athor's Life Comes to an End, Uganda's President Accused of Involvement," *Sudan Tribune*, 20 December 2011, Internet; available at <http://www.sudantribune.com/General-Athor-s-life-comes-to-an,41051>. Accessed 5 March 2012.

⁹⁵ James Copnall, "Dream Election Result for Bashir," *BBC News Khartoum*, 27 April 2011, Internet; available at <http://news.bbc.co.uk/2/hi/africa/8645661.stm>. Accessed 6 March 2012.

⁹⁶ Unsigned, "Obama Renews Sudan Sanctions," *Al Jazeera*, 1 November 2010, Internet; available at <http://www.aljazeera.com/news/africa/2010/11/201011191135816881.html>. Accessed 6 Mar 2012.

Sudan from its list of state sponsors of terrorism if the referendum on southern self-determination and the referendum in Abyei took place in January 2011.⁹⁷

The northern government sent mixed signals to the Americans and the rest of the world. The southern referendum took place but the Abyei referendum did not. Following the overwhelming decision of the south to secede in January 2011, there began to be signs that the north might not allow the south to secede despite the referendum results. Northern rhetoric was stepped up, for example, it was stated that the south would not be allowed to secede until border demarcation was complete.⁹⁸ Another troubling indicator of the north's intentions was its invasion of Abyei in May of 2011. Following the invasion of Abyei, intense American pressure on the government of Sudan helped ensure that the separation of South Sudan took place in July 2011. It is likely that Bashir and the NCP realized that although they did not want to lose southern resources, the separation process had come too far for it to be turned around. Thus it is most likely that unilateral American incentive such as removing sanctions on Sudan and removing Sudan from the list of state sponsors of terrorism most likely contributed to the successful separation of South Sudan.

The next chapter deals with the ongoing issues that have placed Sudan and South Sudan in a low-intensity conflict with a high potential for escalation in 2012.

⁹⁷ Unsigned, "US Offers Sudan 'Terror List' Deal," *Al Jazeera*, 8 November 2010, Internet; available at <http://www.aljazeera.com/news/africa/2010/11/2010117235958260318.html>. Accessed 6 Mar 2012.

⁹⁸ Unsigned, "Sudan's NCP Says no Recognition of South Sudan State Without Border Demarcation," *Sudan Tribune*, 26 May 2011, Internet; available at <http://www.sudantribune.com/Sudan-s-NCP-says-no-recognition-of-39031>. Accessed 24 Feb 2012.



Figure 3.0 Map of Heglig Oil Field
Source: Drilling Info International

CHAPTER 4 - Post Secession Issues and War

The Republic of Sudan and its new neighbour South Sudan are now involved in a war in the Heglig region that has potential to spread to full scale war between the two countries. There were already wars being fought in both Blue Nile and South Kordofan States between the SAF and the SPLM – North (SPLM-N). The SPLM-N is a separate entity from the SPLM which forms the majority of the GOSS, but is a reflection of the large number of people from these two northern states that chose to side with the south in the last civil war. Prior to the southern invasion of Heglig, South Sudan denied any assistance to the SPLM-N, despite repeated northern claims to the contrary. The Abyei region also remains contentious with northern troops still occupying the area, but the key issue that has brought the countries to war is oil sharing. The following ongoing sources of contention between north and south will be discussed: oil revenue, Blue Nile and South Kordofan States and the Abyei region. It must be noted that some of the organizations involved are new or have changed names since South Sudan became a country. There is no more GONU, it is once again the Government of Sudan (GOS), the SPLM continues to form the majority of the Government of South Sudan (GOSS), and there is a new South Sudan Armed Forces (SSAF). The SPLM-N has no official links with the SSAF, despite Sudan's allegations of southern assistance to the movement. Finally, there is a new alliance of rebel groups that was formed in November of 2011 called the Sudan Revolutionary Front (SRF). It is composed of groups from Darfur, Blue

Nile and South Kordofan with a stated aim of overthrowing the government in Khartoum.⁹⁹

Another new actor post-secession is the United Nations Mission in the Republic of South Sudan (UNMISS) established by UNSCR 1996 on the 8th of July 2011, one day prior to the secession of the south. UNMISS has an approved force of up to 7000 military and 900 police personnel and a budget of \$722 million USD per year.¹⁰⁰ UNMISS has a Chapter VII mandate to foster state building and economic development, supporting the GOSS in exercising its responsibilities for conflict prevention at all levels of government, assisting the GOSS in its ability to provide security and establish the rule of law.¹⁰¹ UNMISS is a state building mission, it is not a mission with a mandate to keep the peace between the world's newest neighbours. It has a strong Chapter VII mandate, but this is most likely to be used on a very limited scale if the South Sudanese security forces are unable to provide security for one or more of its citizens. UNMISS is most definitely not equipped nor mandated to step between the armies of Sudan and South Sudan in the ongoing conflict along the border. For this reason, UNMISS is not a significant player in the ongoing post-secession issues between Sudan and South Sudan that will now be discussed.

⁹⁹ Unsigned, "Sudan Rebels Form Alliance to Oust President," *Al Jazeera*, 13 November 2011, Internet; available at <http://www.aljazeera.com/news/africa/2011/11/2011111313442277256.html>. Accessed 7 Mar 2012.

¹⁰⁰ United Nations Mission in Sudan, "UNMISS Facts and Figures," <http://www.un.org/en/peacekeeping/missions/unmiss/facts.shtml>; Internet; accessed 19 April 2012.

¹⁰¹ United Nations Security Council, *Resolution 1996 (2011)*, Adopted 8 July 2011 (New York: UN, 2011) 4.

Oil Revenue

Of all the contentious issues facing the two countries, oil appears to be what has brought the two countries to war. Sudan lost approximately 75% of its oil reserves when the south seceded; however, it hoped to maintain revenues from South Sudanese oil production as the only means South Sudan has to get its oil to the export market is via the northern pipeline infrastructure to Port Sudan on the Red Sea. Thus, in theory the countries depend on each other and both stand to gain from oil revenues. In practice, the two countries cannot agree on the transit fees South Sudan should pay to use the north's infrastructure. Negotiations to resolve the issue took place in the first few months following separation and were mediated by the African Union High Level Implementation Panel (AUHIP), but both sides were widely apart and could not agree on a transit fee. South Sudan was willing to pay approximately \$1 per barrel, in what it claimed was within international norms, while the north demanded \$32 per barrel as a transit fee.¹⁰²

During the first few months of negotiations, the oil flow continued until it was revealed in January 2012 that Sudan was confiscating part of the South Sudan's oil in lieu of collecting a transfer fee, which precipitated a decision by the GOSS to halt the production of oil on the 28th of January 2012.¹⁰³ It was reported by the Sudan Tribune

¹⁰² Unsigned, "SPLM Political Bureau Backs Oil Stoppage and New Pipeline," *Sudan Tribune*, 7 February 2012, Internet; available at <http://www.sudantribune.com/SPLM-Political-Bureau-backs-oil,41539>. Accessed 3 Mar 2012.

¹⁰³ Ngor Arol Garang "South Sudan Completes 90% Closure of Oil Production," *Sudan Tribune*, 28 January 2012, Internet; available at http://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=41439. Accessed 28 January 2012.

that “The senior member of the country’s ruling Sudan People’s Liberation Movement (SPLM) added he would prefer that the oil remains underground for the next generation instead of producing it to be confiscated by Khartoum.”¹⁰⁴ Sudan took a different view of the same situation with President Bashir accusing southerners of being ungrateful and stating “... that it was the Khartoum government that carried out the oil exploration projects after years of civil war fighting and perishing martyrs.”¹⁰⁵

South Sudan’s capture of the Heglig oil field (see Fig 3.0 on page 59) on the 10th of April cut Sudan’s already limited production of 115,000 barrels per day of oil in half.¹⁰⁶ It would appear that South Sudan is effectively waging an economic war against the north for the injustices it perceives to have been inflicted by the north. The north was not receiving any money from southern oil revenue following the stoppage of the oil flowing through the northern pipelines from South Sudan. By taking Heglig and reducing Sudan’s limited production in half, South Sudan is effectively choking the northern economy. It is highly likely that the southern government is hoping that economic collapse will precipitate regime change in the north. It can also be said that the southern economy is more dependent on oil than that of the north and that any stoppage in oil flow through the northern pipelines hurts the south more than the north; however,

¹⁰⁴ Ngor Arol Garang “South Sudan Completes 90% Closure of Oil Production,” *Sudan Tribune*, 28 January 2012, Internet; available at http://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=41439. Accessed 28 January 2012.

¹⁰⁵ Unsigned, “Sudan’s Bashir says Juba Committing ‘Suicide’ by Shutting Down Oil Production,” *Sudan Tribune*, 12 February 2012, Internet; available at <http://www.sudantribune.com/Sudan-s-Bashir-says-Juba.41595>. Accessed 13 February 2012.

¹⁰⁶ Unsigned, “No Negotiations With South Sudan Before Withdrawal From Heglig, Bashir Tells Egypt,” *Sudan Tribune*, 15 April 2012, Internet; available at <http://www.sudantribune.com/No-negotiations-with-South-Sudan.42268>. Accessed 18 April 2012.

both countries are largely dependent on this resource and this appears to be a fight to the finish. It is more likely that South Sudan believes a regime change will happen quickly in Sudan and that it can survive in the short term without oil revenue. It is also possible that South Sudan seized Heglig to use as a bargaining chip, but as this war escalates daily it is unlikely that this was the sole purpose of its seizure. The historical animosity and outright hatred between north and south described in Chapter 1 appear to have won over a more reasoned approach of negotiating the sharing of oil revenues.

Abyei Region

The status of the Abyei region is an ongoing issue, but has not been a major center of conflict since the secession of South Sudan. There has been no change in the situation with respect to its referendum which has not been held due to the continuing disagreement over the participation of the Misseriya peoples, and northern troops remain in the Abyei region. The Dinka Ngok remain firmly against the participation of the Misseriya, while the Misseriya threaten war if they are excluded from the referendum. According to the *Report of the Secretary-General on the Situation in Abyei* Issued by the UN in January 2012, the situation is volatile due to the annual migration of Misseriya nomads coupled with the return of the displaced Dinka Ngok. It also cites issues forming the Abyei Area Administration due to differences between the GOS and GOSS on appointments to this body. UNISFA had deployed 3,798 of its 4,200 member force at the time of the January 2012 report and was completing operations in accordance with its mandate throughout the Abyei area.¹⁰⁷

¹⁰⁷ United Nations Security Council, *Report of the Secretary General on the Situation in Abyei*, Issued 27 January 2012 (New York: UN, 2012), 1-8.

In summary, although there has been no progress on issues that should have been resolved during the Interim Period of the CPA, there has been no further deterioration, nor a return to the violence experienced during the north's invasion of the Abyei in May 2011.

South Kordofan and Blue Nile States

There is indisputable evidence that there is an ongoing war in both of these states. It can be viewed as a civil war or insurgency if one views it as a conflict between rebels and the central government in Khartoum, yet it can also be viewed as a war between countries if one believes the rebel action is being supported by South Sudan and the SSAF. Sudan views it as the latter, while South Sudan claims that the north created its own problem by marginalizing these regions and alienating their peoples.¹⁰⁸ It has now been significantly complicated by the invasion of Heglig in South Kordofan State by South Sudan.

The wars in Blue Nile and South Kordofan States started with the attempt by SAF forces to de-arm the SPLM-N following the deadline for their relocation south in June 2011 (see Chapter 3). In South Kordofan the SPLM-N had already withdrawn its participation in the State Government following the disputed elections in May 2011, while in Blue Nile the democratically elected SPLM governor, Malik Agar, and was relieved of his governorship by Khartoum in November 2011, thereby eliminating SPLM-N participation in Blue Nile as well. President Bashir appointed an interim military leader in Agar's stead. Malik Agar then became the leader of the SRF, while the ex-deputy governor of South Kordofan, Abdul Azziz al-Hilu was placed in charge of the

¹⁰⁸ Unsigned, "South Sudan Says Not Part of Khartoum Crisis, Vows to Protect its Territories," *Sudan Tribune*, 4 March 2012, Internet; available at <http://www.sudantribune.com/South-Sudan-says-not-part-of.41795>. Accessed 7 Mar 2012.

SRF's military operations.¹⁰⁹ It is clear that the SPLM-N has abandoned political attempts at restitution and is instead attempting to widen the rebellion against Khartoum by uniting with Darfurian rebel groups under the SRF umbrella.

The GOS response has been to once again begin training and arming the People's Defence Force (PDF) in order to assist the SAF's battle, a troubling development given the PDF's brutal history during the civil war.¹¹⁰ The militias and paramilitary forces have historically been used by Khartoum in times when SAF forces proved insufficient, but they have inflicted horrific and appalling abuses on their opponents (see Chapter 1).

The conflicts in these states are wars, whether civil or otherwise, replete with aerial bombardment by the SAF and major ground battles using heavy weaponry. The SRF's use of heavy weaponry has led to accusations of support from the south, although the SRF claims to have captured the tanks, heavy machine guns and artillery it is using from northern forces, denying any support from the south.¹¹¹ Thousands of people are being displaced. Recent fighting in the area of Jau in Sudan led to allegations that the SSAF participated in the fighting, while the north has been accused of bombing towns within South Sudan's Unity State.¹¹² Monitoring of the situation and proving these

¹⁰⁹ Ngor Arol Garang, "Sudanese Rebel Calls For No Fly Zone in Conflict Areas," *Sudan Tribune*, 4 March 2012, Internet; available at <http://www.sudantribune.com/Sudanese-rebel-calls-for-no-fly.41794>. Accessed 7 March 2012.

¹¹⁰ *Ibid.*

¹¹¹ Ngor Arol Garang, "SRF Rebel Leader Denies South Sudan's Participation in Border Clashes," *Sudan Tribune*, 1 March 2012, Internet; available at <http://www.sudantribune.com/SRF-rebel-leader-denies-South.41764>. Accessed 7 March 2012.

¹¹² Unsigned, "Unity State Minister Accuses SAF of Deadly Aerial Bombardment," *Sudan Tribune*, 1 March 2012, Internet; available at <http://www.sudantribune.com/Unity-state-minister-accuses-SAF.41765>. Accessed 7 March 2012.

allegations is virtually impossible given the lack of UN observers, impartial international monitors or international media. The security situation in these areas generally precludes international groups from monitoring the conflict. One organization that is attempting to make a difference using commercial satellite technology is the Satellite Sentinel Project, formed in October 2010. It has a goal of deterring both sides from war in Sudan by making satellite imagery of military movements and the destruction of villages available to the public. Although the deterrence effect this project has had is questionable, the group has photographic evidence wars are being fought in Blue Nile and South Kordofan States. Imagery from the Satellite Sentinel Project is available online for the world to see.¹¹³

In summary, although there were already conflicts in South Kordofan and Blue Nile States, with the invasion of Heglig on the 10th of April 2012 there is no longer any doubt that Sudan and South Sudan are engaged in at least a limited scale war. The region of Abyei continues to be a source of contention, but it is not the center of the current conflict. The principle cause of the war appears to be oil, which started with the theft of South Sudanese oil by the north, a subsequent stoppage of southern oil through Sudanese pipelines once the theft was discovered, and finally the invasion of Heglig by South Sudan.

¹¹³ More details on the Satellite Sentinel Project can be found at the following website: <http://satsentinel.org/>

CHAPTER 5 - Conclusion

This paper has shown that although the Interim Period of the CPA finished with a successful referendum on southern self-determination, two overriding factors resulted in an unsuccessful peace. The first is the historical animosity between northern and southern populations, and the second includes all of the unresolved issues left from an incomplete implementation of the CPA. It was demonstrated that throughout modern Sudanese history, the northern populations have dominated the southern populations which has led to a rift that is proving impossible to overcome. The unresolved issues from the Interim Period of the CPA are simply fuelling this historical animosity.

The history of domination of southern peoples by the Afro-Arab populations of the north was discussed throughout modern Sudanese history, from the period of Turco-Egyptian rule to the signing of the CPA. In particular, the political and economic dominance of the central government over the south, and the enforcement of Islamization and Arabization on southerners were stated to be critical factors leading to the general contempt of the northern government by the southern population. It was also shown that historically race has not been an absolute in Sudan, despite the fact that this does not conform to sociological norms. Given the power the Afro-Arabs have maintained in Sudan, many individuals have self-identified as Arabs by becoming devout Muslims and speaking Arabic; however, Black Africans have been left with the difficult decision of being second class citizens if they self-identify as Arabs, or being excluded by the system if they self-identify with other African groups.

The specific problematic or unresolved issues remaining from the Interim Period of the CPA that were analyzed included border demarcation, oil revenue sharing, the

region of Abyei, Blue Nile and South Kordofan states, and the 2010 National Elections. It was shown that President Bashir and his NCP were hostile towards CPA implementation, that the SPLM/A did not have the capacity for implementing the CPA, that the UN's assistance in implementing the CPA was hampered by the obstinance of the other parties involved, and that the GONU did not fulfill its mandate of promoting unity. It was also demonstrated that the CPA document itself was not fundamentally flawed, but rather provided flexibility and required the goodwill of both northern and southern governments to be properly implemented. With the unfortunate death of Dr. Garang and the diminished hope for unity the northern government used the inherent flexibility in the CPA to sabotage its implementation. This paper also determined that American actions helped salvage the southern referendum.

Looking forward, the war between Sudan and South Sudan appears to be escalating, with President Bashir reported as saying that this war will end in either Juba or Khartoum with the winner taking all.¹¹⁴ Prior to April 2012, the foremost issue to be resolved was the dispute over oil transit fees in order to allow South Sudan's oil to flow through northern pipelines. With the southern invasion of Heglig on the 10th of April 2012, and the ongoing aerial bombardment of southern cities by the north, the current priority must be peace talks and a de-escalation of the current conflict. Without peace, none of the issues discussed in this paper can be resolved.

¹¹⁴ Unsigned, "Bashir Threatens to Liberate South Sudan's Citizens From Insect Regime," *Al Arabiya News*, 18 April 2012, Internet; available at <http://english.alarabiya.net/articles/2012/04/18/208680.html>. Accessed 18 April 2012.

Of all of the unresolved issues discussed, oil is central. Without the flow of oil the economy of both countries will be crippled and both populations will be further impoverished and destabilized, although this may in fact be the objective of South Sudan in order to promote an uprising and regime change in the north. The fact that South Sudan cut off the flow of southern oil flow into the northern pipelines and subsequently seized the Heglig oil field, cutting the limited northern oil production in half, lends some credibility to this theory. The historical divide between north and south is fuelling the fight over oil resources. The north views the oil in both Sudan and South Sudan as inherently theirs, while the south sees its oil as something once stolen and finally returned, and appears willing to use oil in a form of economic warfare. Historical animosity only fuels these conflicting viewpoints.

AUHIP tried to mediate the talks on the issue of oil transit fees to no success, although AUHIP was effectively in the same situation as the UN found itself during the Interim Period. They facilitated, but the parties themselves were unwilling partners and there was little that could be done to pressure a resolution.

Another ongoing issue that must be resolved is the conflict between the SAF and the SRF in Blue Nile and South Kordofan States, although it now seems inextricably linked to the war between Sudan and South Sudan. Even if the war between Sudan and South Sudan de-escalates, the conflict between the SAF and the united rebel groups under the SRF umbrella will be difficult to resolve. These unified rebel groups may be looking at South Sudan's secession as a precedent might also seek the right to self-determination. Bashir and his NCP cannot afford to lose Darfur, Blue Nile State and South Kordofan State and their associated oil resources and territory, therefore they will most likely use

whatever means at their disposal to maintain control of these areas. This issue has been significantly complicated by South Sudan's invasion of Heglig, as the war is now between the northern forces and a combination of the SSAF and SRF. South Sudan's claim that it is not assisting the SRF forces now appears completely implausible.

Issues such as the Abyei Region must be put on the back burner until the current limited scale war can be de-escalated and talks on dealing with the oil resources restarted. If this is not done quickly, it may escalate as suggested by President Bashir and end when either Juba or Khartoum is captured by enemy forces. It now appears that the Interim Period might have simply been a lull in a war that can no longer be classified as a civil war, but rather a war between countries. Despite the odds, I will continue to hope for peace.

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