

# **Building the Capacity for Sustainable Peace in Sudan**

**A joint project of  
Africa Peace Forum and  
Project Ploughshares**



**Paper #1:**

**Overview of the Challenges to the  
Comprehensive Peace Agreement**

**by Dr. Alfred Lokuji**

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## **About this Paper**

This research paper is the first in a series to come out of a joint project of Project Ploughshares and the Africa Peace Forum that aims to help the emerging governments and civil society of north and south Sudan to build conditions conducive to a successful interim process leading to sustainable peace. The project team includes Ochieng Adala, Victor Okello (Africa Peace Forum), and Lynne Griffiths-Fulton (Project Ploughshares).

Project Ploughshares and Africa Peace Forum gratefully acknowledge the financial support of the Canadian International Development Agency (CIDA).

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## **Africa Peace Forum**

Africa Peace Forum (APFO) is a non-governmental organization based in Nairobi, Kenya, which carries out research and analysis on peacebuilding, conflict resolution, and security issues in the Horn of Africa and Great Lakes region. APFO engages civil society and the political community in ongoing and joint exploration of new approaches to security arrangements in the region.

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Project Ploughshares is an ecumenical agency of the Canadian Council of Churches established to work with churches and related organizations, as well as governments and non-governmental organizations, in Canada and internationally, to identify, develop, and advance approaches that build peace and prevent war. Project Ploughshares is affiliated with the Institute of Peace and Conflict Studies, Conrad Grebel University College, University of Waterloo.

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First printed February 2006

ISBN 1-895722-49-7

Cover photo: "Sudan's New Government of National Unity Inaugurated" (UN Photo #81995/Evan Schneider, 9 July 2005). In photo are, from left to right, John Garang, Vice President; Omer Hassan A. Al-Bashir, President of Sudan; Ali Osman Mohamed Taha, Second Vice President.

## **Executive Summary**

This work is based on the assumption that the recently achieved peace in Sudan is, by no means, cast in iron. It could unravel at any time.

Given that the CPA is between the Government of the Sudan based in Khartoum and the people of South Sudan represented by the Sudan People's Liberation Movement/Army (SPLM/A), if the SPLM/A fails to recognize that there are other Southern Sudan groups who are as passionate in expressing their southern nationalism, it will have re-introduced into the agreement the very fragmentation that had made each faction go it alone. This gives rise to the first risk to peace.

The three protocols in the CPA—Power Sharing, Wealth Sharing, and Security Arrangements—are also loaded with obstacles.

The principles of the devolution of power will probably present some of the most difficult tests for the peace agreement. How much power is Khartoum ready to share with both South Sudan as well as with other regions of the Sudan—not excluding the need to have the blessings of forces opposed to the NCP government? These questions apply to all tiers of government where the practice of devolved powers is at issue. If Khartoum dishonours the principles of devolution of powers and self-determination as agreed in the DOP in Machakos, the result could be a return to hostilities.

As well, the South Sudanese feel that their northern fellow citizens have deprived them economically since independence. Consequently, the principle of equitable development enshrined in the Wealth Sharing Protocol should be a priority from the very beginning of the Interim Period. Delays in salaries or the commencement of development projects may be misinterpreted by Southerners.

And the Security Arrangements, although seemingly straightforward, constitute some of the greatest risks to the peace agreement. Equal treatment of the forces of the government of national unity and those of the SPLM/A will be absolutely essential to avoid a revisiting of the discontent of the post-Addis Ababa peace agreement (1972) that led to further hostilities. Troop deployments and movements should not appear to be exercises in the isolation of SPLA or other forces, especially to the North. Should there be discontent, weapons, especially small arms and light weapons, are plentiful this time around.

Both the North and the South have plenty of unionists as well as separatists among their ranks. These are likely to be provoked by anything that constitutes a dishonouring of any of the provisions of the CPA, whether actual or simply a misinterpretation of provisions. If there are widespread conflicts at the community level, as experienced in the last two years, it is unlikely that the forces of the unity government would be able to handle the unrest, unless the projected 20,000 state troops are retrained and deployed.

Policing of conflict areas will have to be improved, justice delivered as soon as is possible, and traditional authority mechanisms restored.

Without effective peace monitoring and maintenance mechanisms at the local level, conflicts tend to escalate from the personal level to family, community, clan, and finally tribe. Judicial authorities play a major role in this process; without them the delay of justice amounts to justice denied, culminating in acts of personal vengeance.

The DDR program provides a source of hope for thousands of South Sudanese, some of whom do not know any other life than that of the military. Children who were 10 to 15 years of age at the outbreak of war in 1983 are now war veterans. Along with their more senior colleagues, they neither had the time for school nor the opportunity for vocational training. A properly conceptualized DDR program should recognize that a sizeable number of those demobilized, perhaps up to 50% of them, might not want to be re-integrated into their communities, but go to the major urban centres. This calls for fast but effective training in useful and productive skills for producing consumer goods or services in the urban centres of South Sudan.

For each of these areas that constitute a challenge to the peace in Sudan more detailed research and analysis will be required. This overview paper is a starting point. The findings from the ensuing research that will be commissioned as part of the APFO/Project Ploughshares project will provide recommendations for the development of policies and action plans to promote sustainable peace in the Sudan.

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## **List of Acronyms**

APFO	African Peace Forum
AU	African Union
CDR	Commander (SPLA military title of the highest rank)
C-in-C	Commander-in-Chief
CPA	Comprehensive Peace Agreement
DDR	Disarmament, Demobilization and Re-Integration
DOP	Declaration of Principles
GOS	Government of Sudan
GOSS	Government of South Sudan
KPA	Khartoum Peace Agreement
LC	Leadership Council (depending on context, may also refer to “Liberation Council”)
MCA	Military-Civil Administration
NDA	National Democratic Alliance
NEC	National Executive Council
NGO	Non-Governmental Organization
OAU	Organization of African Unity
PACT	NGO that implements USAID’s Peace Fund
PRDA	Presbyterian Relief and Development Agency
SPLM/A	Sudan People’s Liberation Movement / Army
SSLM	South Sudan Liberation Movement
SSU	Sudan Socialist Union
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development



## **1. Introduction**

The Comprehensive Peace Agreement (CPA) signed between the SPLM/A and the government of Sudan on January 9, 2005 is sufficient cause for celebration for a people who have experienced nothing but war in the 40 years since independence in 1956.

However, past experience has shown that almost any peace in Sudan is quite fragile and can be easily shattered. Focused research and analysis on the challenges to peace and stability in the Sudan are some means to try and pre-empt a return to conflict. This paper aims to provide an overview of the challenges that need to be addressed.

The problems of the Sudan in general, and those of South Sudan in particular, are often described in various terms including, but not limited to, the following: North-South, South-South, political parties, armed groups or militias, external threats, religion, ethnicity, slavery, and race relations. None of these conflicts fit neatly into packages that are amenable to the type of analysis that preoccupies political scientists.

In view of the plethora of problems and the resultant multi-dimensional ways in which these problems can be analysed, one can only do justice to such analysis by being selective—and more importantly, by focusing on the most virulent aspects of these problems. Therefore, the focus of this paper is on those problems that constitute imminent risks to peace in the post-CPA era in South Sudan.

The methodology applied in addressing the subject is limited to analysis of secondary sources—various reports on security in South Sudan and the records of recent peace and reconciliation meetings among different communities of South Sudan. These conference reports are rich with examples of how ordinary citizens and traditional community leaders perceive and explain conflict and the risks to negotiated peace.

## **2. The North-South Conflict**

The root cause of the problems in the Sudan that has made peace elusive for the past few decades, many will suggest, is the Arab-African problem or, as it is commonly referred to, “North-South conflict.” The problem with the “North-South” description of the problem is that it proves faulty when one considers that the forces of the Nuba Mountains and those of the Southern Blue Nile were also involved in the Southern war against Khartoum. Both the North and the South have occasionally used colonial history to explain the genesis of the North-South conflict.<sup>1</sup> The South makes claims of having been betrayed by the British at the dawn of Sudanese independence. The North does not spare the British colonialists either, accusing them of cultivating a separatist mindset in

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<sup>1</sup> Until recently, when the SPLA gained respect from some African states, the official doctrine of the OAU and its successor, the AU, had been the preservation of colonial boundaries. Movements that sought to split an OAU member state were condemned outright. Rumour among South Sudanese had it that John Garang’s declarations for a united New Sudan were simply tactics to keep the OAU and others pacified.

Southerners by the use of the so-called Closed Districts policy.<sup>2</sup> Neither of these positions sufficiently explains why Sudanese have not been able to solve a colonial problem after 50 years.

However, what is not in doubt is that there has been a sense of dissatisfaction against Sudanese rulers holding sway at the capital in Khartoum throughout this time period. That dissatisfaction became widespread when the SPLM gave it momentum by describing the root cause as marginalization—the political, economic, and social system that disregarded large chunks of Sudanese communities all over the country. Marginalization became the *prima facie* evidence to justify the taking up of arms by all those forced into this situation by the various regimes in Khartoum.

Two long wars, interrupted by only 11 years of uneasy peace, were bound to have effects both visible and invisible, temporary and permanent. Lack of trust has been pinpointed as one of the more general effects of these wars. Both the Anyanya One (1955–1972) and the civil war with SPLA forces (1983–2004) brought about unparalleled insecurity in South Sudan, making the attainment of peace a Herculean task. The proliferation of weapons, as has been pointed out time and again in peace gatherings, added a South-South dimension to the civil war.

Perspectives on the attainment of peace differ, especially between North and South.

If a recent document, purportedly the official document outlining the policies of the Republican Palace, bears any authenticity, the Northern Sudanese perspective is succinctly clear in its desire for “[a] peace that takes its essence from the unity of the Sudanese land.”<sup>3</sup> With unionists pitted against separatists in the South, a compromise did not seem likely, particularly in view of the failure of the post-Addis Ababa experiment of autonomous government for South Sudan. The determination to emphasize unity at any cost was easily translated into a hard-line position dictating that “military action must control the land”<sup>4</sup> and exhorting the “intensification of operations to secure the land.”<sup>5</sup>

Statements of the above kind, placing great emphasis on unity of the Sudan at any cost, should not be taken lightly by guardians of the peace in Sudan. When the time is right, virulent opponents of the fragmentation of the Sudan may not hesitate to give the military option one more try. The six-year Interim Period supposedly provides an opportunity for tempers to cool down and not only give unity a chance but also, more importantly for South Sudanese, provide an opportunity for the opening of political space to debate and discuss options that will lead to a referendum at the end of the Interim Period that will determine whether they remain within a united Sudan or form a new independent country.

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<sup>2</sup> This was legislation that forbade the free movement of Arabs into southern Sudan.

<sup>3</sup> Republic of the Sudan, “The General Plan for peace and unity,” The Republican Palace (2001), p. 1.

<sup>4</sup> Republic of the Sudan, Section 4. Military Action, p. 9.

<sup>5</sup> Republic of the Sudan.

Southerners have generally been inclined to view an independent South Sudan as the ultimate solution—but a growing minority sees unity as the best solution.

The official SPLM position, certainly at the leadership level of John Garang, is that a new secular Sudan, in which no one is discriminated against regardless of race, religion, or tribe, is the preferred option. However, given that a large majority of South Sudanese have been fighting for the independence of South Sudan, unity would be viewed as a betrayal.

The discovery of oil and other natural resources in southern Sudan has solidified the Northern determination to hang on firmly to unity and has equally strengthened the resolve of the majority of Southerners to view separation as their ultimate political objective in post-Interim Period Sudan. The clash of these two irreconcilable positions is most likely to promote risks to peace and popularise hardliners on any side.

### **3. Marginalization**

Marginalization as a fomentor of conflict in Sudan is impossible to analyse exhaustively. Therefore a few of the manifestations of marginalization that have fuelled revolution—in the South, the East, the West, and now the far North as well—will be examined.

The Khartoum region has had the lion's share of development programs in Sudan since pre-colonial and colonial times. The development of the city of Khartoum into a relatively modern metropolis has picked up momentum under the current regime with its revenue from the oil fields of Upper Nile. The one and only political power base is Khartoum. The most important political positions, not to speak of the presidency of the Sudan, are held by residents of Khartoum or not far removed from it. An aspirant to power whose origins are not in Khartoum must accept co-optation into the Khartoum power base. The best time South Sudan has ever had in coming close to the centre of power, apart from the prospects offered by the CPA, was at the time of the Addis Ababa Agreement when the Regional Government in Juba occupied high ranking positions in the autonomous government of the time. Even then, those who ascended to the lofty heights of politics, regional or national, had to pay prime allegiance to the Sudan Socialist Union (SSU), the organization invented by Gaafar Mohammed Nimeiry to filter out non-supporters of his regime. Political marginalization is effected today in the form of the imposition of the National Congress Islamic litmus test for holding office, whether in the centre or in the periphery.

But it is not only the South that has suffered neglect and marginalization. In fact, most of the rest of the Sudan outside metropolitan Khartoum has suffered the same fate. This may explain why discontent is being expressed everywhere but in Khartoum. So, unless an equitable economic development policy is embarked upon, Sudan could very easily be engulfed in conflict by those who have been forced to live at a comparative disadvantage for too many years.

The Nuba people of the Nuba Mountains in Southern Kordofan supplied significant manpower for the Sudanese army in its war in South Sudan in the Anyanya One war. However, even though large segments of their population profess the Islamic faith, they continued to be marginalized. They remained one of the most unexposed people to general development and over time recognition that they were severely disadvantaged led to large numbers joining the SPLA in its war against the Khartoum regime.

Kurmuk is a good example of the degree to which the people of the Blue Nile province were severely marginalized as well. Once this Southern Blue Nile frontier settlement bordering Ethiopia was sufficiently exposed to the dynamics of marginalization, the various ethnic groups of the Blue Nile joined the SPLM/A to fight Khartoum.

Marginalization is a concept understood in many other parts of Sudan as well. Many are taking up arms against what the SPLM calls the “Old Sudan.” The NDA front in eastern Sudan, covering Kassala and Port Sudan, does not simply consist of those who just want to overthrow the government in Khartoum, but of people who want to bring about the creation of a fairer system of government in which all areas of Sudan enjoy equality in all sectors of human development. The current devastating war in Darfur belongs to the genre of liberation wars that seek to change a system, not just a government.

Socially and psychologically, marginalization may not be as pronounced to the unaccustomed eye; nevertheless, it exists. The Bari, writing to the leadership of the SPLM/A, draw attention to the “belief that the Northern Sudanese always have, that the Southern Sudanese cannot rule themselves.”<sup>6</sup> A veteran Commander of the SPLM/A re-enforced this perception when he wrote: “What the enemy of peace succeeded to do to some of our people over the years, is that they have brain-washed some of them to the point of not believing in viability of whatever they can do for themselves, without being overseen by a master.”<sup>7</sup>

Southern Sudanese initially subscribed to the belief that Northerners largely justified their marginalization due to their classification as “infidels” by Muslims. The active participation of Westerners, the Nuba of the Nuba Mountains, and an assortment of other Muslims of the “North” in the military subjugation of the South gave credence to the feeling that religious considerations were part of the equation in the war against the South. Since the beginning of the SPLA war from 1983 and the subsequent influx of Nuba, the Funj, and other traditionally Islamic groups into the ranks of the SPLA, the belief that the war in the South was one against anti-Islamic infidels was beginning to be proven to be a myth. But this myth has been, for the most part, destroyed by the treatment the Khartoum Government has been meting out to traditional Islamic diehards such as the Nuba, the Funj, now the Beja of the East, and, incredibly, the Fur of Darfur.

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<sup>6</sup> A community letter to the leadership, dated 16/01/05.

<sup>7</sup> Cdr. Edward Lino, “Avowed Enemies of Peace and the Recent Fabrications,” 29 Nov 2004.

#### **4. South-South Conflict**

At a meeting in Tore Payam in Yei County, participants made an attempt to draw an exhaustive list of the type of conflicts that they had come to recognize in strife-ridden South Sudan. Among these were leaders or communities engaged in incompatible and competing roles, ethnic conflict, land conflict, power conflict, cultural conflict, gender conflict, and natural resources conflict.<sup>8</sup> If prodded, the authors of this list would probably be able to provide an example for each type of conflict mentioned. At yet another meeting, conferees lamented the ‘culture of conflict’<sup>9</sup> they were witnessing.

Conflict, some believe, has become so endemic that, at another conference, participants warned that if the Nuer do not realize the challenges facing them, the “Nuer will perish and finish on earth.”<sup>10</sup> Indeed, the intensity of conflict had risen to such a level in Upper Nile that one could find all the types of conflict listed above. The Nuer neighbours of the Lou and Jikany were advised to share water without engaging in attempts to divide their territories.<sup>11</sup> The Lou who had migrants in an area called Wanding were advised to leave that area because it belongs to their neighbours, the Jikany.<sup>12</sup> Another set of neighbours, the Gawaar and the Lou, engaged in cattle raids against each other, as have many other ethnic groups in Upper Nile and Bahr el Ghazal.<sup>13</sup>

As in other parts of Africa, many individuals rise up to articulate the grievances of their tribes. Seldom do these individuals and their tribes realize that there often exist other tribes who are in a worse situation than theirs. Since perception is often more commanding than fact, tribal conflict breaks out because of these perceptions of injustice.

A peace and reconciliation conference resembling the South African truth and reconciliation process was held between the Gawaar and the Lou ethnic groups of central Upper Nile. The difference was when participants exchanged accusations rather than engaging in confessions and seeking forgiveness. However, as a prerequisite to bringing about peace, participants at the conference did attempt to pinpoint what they considered the “root causes of the conflict [Gawaar/Lou],” which they proceeded to cite as follows: 1) proliferation of weapons in the hands of an untrained civil population; 2) sources of water supply and grazing land; 3) breakdown of law and order and integration of the regular soldiers into civil population; 4) fragmentation of the movement into factions; and 5) interference “of the enemy by exploiting our differences and applying the policy of divide and destroy.”<sup>14</sup>

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<sup>8</sup> Report on the Tore Peace & Reconciliation Conference, 7-11 April 2003, Sec. 3.

<sup>9</sup> Nuer People’s Peace Conference, Fangak Conference Report, March 29-April 4, 2004, p. 3.

<sup>10</sup> Nuer People’s Peace Conference, p. 9.

<sup>11</sup> Nuer People’s Peace Conference, p. 12.

<sup>12</sup> Nuer People’s Peace Conference, p. 12.

<sup>13</sup> Nuer People’s Peace Conference, p. 13.

<sup>14</sup> The Gawaar-Lou Peace and Reconciliation Conference Documents, p. 1.

Other peace seekers in Bahr el Ghazal and Eastern Equatoria, especially among the Kidepo Valley groups, have also cited these as root causes of conflict.<sup>15</sup>

### *a) Unity of South Sudan*

Perhaps sensing the “divide and rule” tactics of the GOS, the conferees of the recent South-South Dialogue in Karen (Nairobi) resolved, among other resolutions, that “the unity of the people and territory of Southern Sudan shall be supreme and shall have precedence over other considerations. No legislation in Southern Sudan shall override this interest.”<sup>16</sup> This did not seem odd even though the CPA had already guaranteed that the old three Regions of the South (Bahr el Ghazal, Equatoria, and Upper Nile) were to be divided into ten new states as already done by Khartoum.

Another remarkable contrast to this determination to maintain the “unity of the South” is the widespread phenomenon of ethnic conflict in all three former regions of South Sudan. It may have been more for therapeutic purposes rather than an expression of a determination to retain the hardly visible unity of the South.

## **5. CPA and Post-CPA**

### *a) The Declaration of Principles*

Before delving into one or two sections of the Comprehensive Peace Agreement (CPA), it might be useful to cite some of the hurdles that had to be overcome to reach the six protocols. Any violation of the terms or restoration of the conditions that made negotiations so difficult would constitute an early warning of risks to peace. Critical to the very first protocol signed at Machakos (Kenya) on 20 July 2002 was consensus on the basic principles of successful negotiations, the “Declaration of Principles” (DOP).<sup>17</sup> The most important principle of the 21 listed is that dealing with self-determination. Section 1.3 reads: “That the people of South Sudan have the right to self-determination, *inter alia*, through a referendum to determine their future status.”<sup>18</sup>

This is of great significance in that it set the tone for all the other protocols. It is a relief valve for those for whom separation is non-negotiable in opposition to the GOS position that the sovereignty of Sudan did not allow them to entertain the possibility of its fragmentation. Now it establishes a dilemma for an SPLM/A leadership that accepted the infiltration of the vocabulary of “unity” into many sections of the CPA, yet remains committed to “self-determination” through a referendum to “determine their future

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<sup>15</sup> Nine tribes who inhabit the Kidepo Valley—Lotuho, Logir, Dongotono, Lango, Lopit, Ternet, Didinga, Buya, and the Toposa—gathered for a peace conference from 14-15 April, 2003.

<sup>16</sup> The Covenant of the People of South Sudan, 21 April 2005, Kenya College of Communication Technology, Mbagathi Nairobi.

<sup>17</sup> Chapter I of the CPA, The Machakos Protocol.

<sup>18</sup> Machakos Protocol, Part A: Agreed Principles, Section 1.3.

status.” Informal questions have been raised about the role the SPLM will play in the period leading to the holding of the referendum. Will it campaign for separation or unity? One foreign commentator wonders about the position of Dr. John Garang de Mabior in view of his remarks in Rumbek: “There are no separatists or unionists in the SPLM/A, SPLM will hold the referendum!”<sup>19</sup>

### ***b) Power Sharing***

The CPA chapter on “Power Sharing” is equally full of pitfalls. In the first place, the SPLM has declared numerous times that one front in its war against marginalization is through creating autonomous tiers of local government from the states to the village. All these levels of government would have their own legislatures (liberation councils) and executives. Unfortunately, the SPLM never made any serious attempt to develop its followers’ palates for democracy. On the other hand, the GOS established states that are called autonomous but are essentially extensions of the central government, as is usually the case in unitary systems.

The power-sharing chapter of the agreement calls for a decentralized system of government in which each level of government will “[n]ot encroach on another level’s powers or functions.”<sup>20</sup> This will be a major test of the autonomy of the GOSS and its sublevels. It is to be noted that the Regional Government of the South Sudan in the post-Addis Agreement nominally contained provisions for being autonomous. Nimeiry’s government successfully downplayed this autonomy to the point that the Regional Government could do absolutely nothing without the approval of the Central Government. History will show that a primary and immediate cause of the recently ended war was the unilateral abolition of the Regional Government, followed by its replacement with three regional governments.

### ***c) Wealth Sharing***

Chapter III of the CPA, dealing with wealth sharing, is an attempt to end economic marginalization, from commercial matters to revenue, from natural resources to (primarily) oil and land. Of the last two, land will eventually be the more controversial due to differing philosophies about land ownership. Most South Sudanese communities consider land to be community property, not dispensable by any one person. The GOS holds that unregistered land is government land. Because most land in South Sudan is not registered, the government would consider it government land.

Anticipating a plethora of land cases, the negotiators at Naivasha provided for two land commissions, one for the GOS and the other for the GOSS. Each is to adjudicate land cases under its jurisdiction. The protocol provides that “in case of conflict between the findings or recommendations of the National Land Commission and the Southern Sudan

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<sup>19</sup> Peter A. O. Neding, writing from Melbourne, Australia on the Internet, June 20, 2005.

<sup>20</sup> CPA, Section 1.5.1.4, (c) (1).

Land Commission, which cannot be resolved by agreement, the two Commissions shall reconcile their positions. Failure to reconcile, the matter shall be referred to the Constitutional Court.”<sup>21</sup> It is predictable that it will not be easy for the two commissions to reconcile their positions if they are in “conflict” and if it cannot be “resolved by agreement.” And, taking these conflicts to the Constitutional Court is putting the case squarely in the hands of agents of the GOS who would, naturally, be the majority on this court.

In general terms, the wealth-sharing protocol declares that the “wealth of Sudan shall be shared equitably.”<sup>22</sup> In theory this is a positive development, particularly for Southern Sudanese who have experienced blatant violations of the principles of economic equality and equal opportunity.

Most view this provision in light of the percentages allotted for sharing oil revenue: 2% for the producing area and 50% for the GOSS.<sup>23</sup> The vast majority of Southern Sudanese citizens are unfamiliar with the methods used for calculating the net revenue on which these percentages are based. Nor do they realize the effects of the so-called Dutch Disease<sup>24</sup> and the frightening record of states that placed great reliance on these natural resources to the detriment of other traditional sectors, especially agriculture and self-reliance on homegrown food.

Many suspect that there are hidden hazards in the pre-CPA oil contracts between the GOS and the firms that are drilling the oil. The protocol asserts that present “contracts shall not be subject to re-negotiation”<sup>25</sup> and “those who have access to the contracts will sign confidentiality agreements.”<sup>26</sup> The fact that it is oil under Southern Sudan soil that is being exploited and shared, while natural mineral resources, like gold, gypsum, limestone and marble, found in other parts of Sudan are not being shared in a like manner is problematic.

#### *d) Security Arrangements*

There is a somewhat better atmosphere regarding security arrangements than what existed under the Addis Ababa Agreement. For one thing, the SPLA will retain its own troops apart from the joint government of national unity forces. One hurdle that arose out of this was the immediate refusal of the GOS to finance the SPLA forces in South Sudan.

What will also prove to be problematic is the use of the national forces for military action to which the South is opposed—such as for the suppression of uprisings by other Sudanese who feel marginalized, like the Darfurians. As long as Khartoum avoids issuing

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<sup>21</sup> Wealth Sharing protocol (CPA Chapter III), Section 2.9.

<sup>22</sup> CPA, Chap. III, Section 1.2.

<sup>23</sup> CPA, Chap. III, Section 5.

<sup>24</sup> The phenomenon in which an economic downturn is experienced after phenomenal growth due to the discovery and exploitation of a natural resource, such as oil.

<sup>25</sup> CPA, Chap. III, Section 4.2.

<sup>26</sup> CPA, Chap. III, Section 4.1.

orders for the movement of former SPLA forces to the North, as happened under the Addis Ababa Agreement, there should be little worry that the peace agreement will start to come apart at the seams.

However, it remains to be seen how the GOS and GOSS will handle the large numbers of former SPLA soldiers who are being demobilized and reintegrated. Veterans of all categories, including the wounded, are likely to seek special treatment. Some are likely to resist demobilization and choose to remain in active service despite issues such as number restrictions and fitness policies. Others who accept demobilization may demand employment in the public service based purely on their military service records rather than competency tests. Still others, the officer class, especially at the rank of Commander (Cdr.) and Alternate Commander (Alt. Cdr.), will be expecting executive positions in the civil service or in Parastatal organizations. These are some of the challenges confronting the governments' implementation of the security arrangements that may spark unrest if not tactfully and quickly tackled.

#### ***e) Abyei, Nuba Mountains, and Southern Blue Nile***

The separate treatment of these areas under different protocols may have temporarily averted any continuation of conflict. However, if the case of Abyei is taken as an example, the insistence by the Government of Sudan that Abyei, as per the borders of the provinces of Sudan in 1956, was part of Southern Kordofan may for now be tolerated. The greatest danger to peace in Abyei would arise were the GOS and the Arabs of Darfur to fall back to old patterns of behaviour, effectively rendering the Dinka Ngok second-class citizens in their own lands. Having been comrades-in-arms with the SPLA during the twenty-some years of war, they would expect the GOSS to come to their aid should any violence flare up.

The Nuba, the Funj, and other ethnic groups of the Southern Blue Nile are largely Muslims and Arabic-speaking, even though they still use native tongues and will not accept a return to the *status quo* in which Arab dominance was unquestioned. Any misreading of their desire for a modicum of freedom and improvement in their quality of life would be a catastrophic misjudgment by GOS. A lukewarm response to their needs by the GOSS would raise questions, if not charges of betrayal, especially by those who were in active service in the southern Sudan during the war. The dilemma arises when South Sudanese would like to rise to the occasion by giving at least moral support, thus placing itself in a situation where GOS would charge GOSS with working against the government of national unity by supporting dissenters.

#### ***f) Commitment to Honour the CPA***

There is mutual fear that the parties to the CPA may not honour one or more of its provisions. In fact, the bitter memories of betrayal by Mr. Nimeiry, followed by recriminations resulting from redivision of the Southern Region, has had a more lasting

impact on the predictive thought patterns of Southerners than any other issue in the last four decades. Assumptions are made that Khartoum will work night and day to undermine the protocols, while Khartoum in turn holds fast to its belief that Southerners would definitely succumb to their separatist tendencies if left to themselves.

An issue that almost proved everyone right was the recent attempt by Islamic fundamentalists to assert that Sharia law should govern Khartoum, given that the majority of its inhabitants are Muslims. If this were accepted without question it would amount to challenging and rendering invalid the declaration in the protocol on power sharing that Khartoum, the national capital, “shall be a symbol of national unity that reflects the diversity of Sudan.”<sup>27</sup> Many Southern Sudanese of the Christian faith and other non-Muslims will soon find out what law holds in Khartoum, secular or Sharia. An interpretation of that clause in a manner that denies non-Muslims equal rights and their religious liberties is likely to bring about an immediate confrontation.

It should have come as a great relief to Khartoum and pro-union elements in Sudan that delegates to the South-South Dialogue affirmed their total commitment to the CPA. The Parties, military groups and the organizations to the Dialogue further declared that they shall neither engage nor abet in the breach of all or any provisions of the CPA.<sup>28</sup>

However, recent, unofficial reports out of Western and Eastern Upper Nile reveal that militias allied to the GOS have been fomenting violence likely to be a breach of the protocols. Were the GOS to be proven guilty of providing and giving guidance to these militias, it would not escape blame for breaching the protocols. PRDA has written of “the latest series of attacks and raids in Akobo between February and April 2005 by militia from the town of Nasir, which is under the control of the Government of Sudan army, left a number of people dead and wounded, property destroyed and looted, and has created a lot of suspicion between the various parties.”<sup>29</sup> However, its denial of involvement leaves the issue unresolved and heightens tensions regarding the fate of the militias and their leaders.

### ***g) Southern Groups Who Feel Excluded***

It is openly acknowledged that opponents of the SPLM had for quite some time insisted that the peace talks should not take place nor be concluded before a South-South dialogue had been successfully concluded. These groups feared that the SPLM/A might exclude them from participation in a government of South Sudan if it succeeded in reaching an understanding with the GOS without their participation. This was quite logical considering that the SPLM/A never recognized the so-called Khartoum Peace Agreement (KPA) with former members of the SPLM-United. The record of mutual hostility was clear and uncertainty prevailed as to what the SPLM/A would do if it successfully went it alone with the GOS.

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<sup>27</sup> CPA, National Capital, Section 2.4.1.

<sup>28</sup> The Covenant of the People of Southern Sudan.

<sup>29</sup> PRDA Lou Nuer Peace Conference project proposal, background and justification.

The opportunity to undertake such a meeting presented itself only after the agreement was signed. The post-CPA South-South Dialogue was held when the SPLM/A felt sufficiently relaxed and confident to engage these other groups. Those who had demanded a South-South Dialogue as a condition for a comprehensive peace underlined the importance of the principles of inclusiveness to enhance their full participation in the affairs of their [GOSS] governance.<sup>30</sup> Simultaneously, there was the fear that the GOS might take advantage of grievances of Southern factions and groups to promote its strategy of divide and rule.

## **6. Armed Groups/Militias**

Some individuals go to great pains to make it clear that there is a world of difference between “armed groups” and “militias.”<sup>31</sup> Groups that aligned themselves and took up arms for the SPLA political cause—such as the The Equatoria Defence Force (EDF) and the South Sudan Defence Forces (SSDF)—were to be considered “armed groups.” On the other hand, all other forces allied to GOS and dependent on it for almost everything except manpower are considered to be “militias.” But there is insufficient clarity surrounding the status of some militias—are they warlords or genuinely members of aggrieved communities?

The SPLM/A and various armed groups were able to enter into dialogue with a view to integrating the armed groups into the territorial army of southern Sudan after the peace agreement.<sup>32</sup> On the other hand, “many of the militias that sprang up, were tribally based—which fact led to a preoccupation with acts of vengeance.”<sup>33</sup> One might cite the example of an exchange in a militia-infected area where acts of vengeance are the norm: “We have even become more skilful than you [Lou], therefore we do carry out looting missions in Shulluk lands.”<sup>34</sup> One commander confessed: “We have robbed, looted, and killed innocent lives but we cannot benefit from whatever wealth we acquired through dubious means.”<sup>35</sup>

There may be others who belong neither to an armed group nor to a militia but are not willing to accept the peace agreement. Explaining possible motives for the recent series of divisive letters allegedly authored in Yei, Cdr. Wani Igga speculated that some of the opponents of the peace were “those who think they will not benefit from the upcoming peace.”<sup>36</sup> A bold participant at a conference disclosed yet another reason some people

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<sup>30</sup> Press Release, 21 April 2005.

<sup>31</sup> Cdr. Alfred Lado Gore was visibly annoyed when someone implied the two were the same. PRDA defines militias as “informal forces of GOS.”

<sup>32</sup> Press Release, 21 April 2005.

<sup>33</sup> Anonymous, “South-South Dialogue: A Time for Discourse, a Time for Strength in Unity.”

<sup>34</sup> Gawaar Chief Jok Ngor Chok of Wic Ding, at Lou/ Gawaar Conference, p. 7.

<sup>35</sup> Lt. James Chuol Biel of the White Army, Lou/Gawaar Reconciliation Conference, p. 8.

<sup>36</sup> Address by Cdr. Wani Igga entitled “Only cheap brains can allow themselves to get clashed against each other,” September 2004, Yei.

might be opposed to peace. “In our area,” he declared, “if you are called a man of peace, that means you are coward. Peace to us is cowardice.”<sup>37</sup>

## **7. External Threats to Peace**

The role external forces might play in endangering the peace in Sudan, and consequently Southern Sudan, is a bit difficult to fathom at present. There are countries with particular agendas such as Egypt and the use of the waters of the Nile, or Libya with its pan-African and pan-Arab foreign policy ambitions that may prove problematic in future. The common view from these two countries, the Arab League, and the Islamic world is a desire to retain the unity of the Sudan, but with little thought of what the cost of that unity might be to Sudanese minorities or marginalized groups. To counter any hostile forces, the Sudan should turn to “the drawing of contribution from friendly countries such as the Fund for South Sudan Development suggested by the Arab League.”<sup>38</sup>

Probably there is no worse external threat than “external apathy,” the general reluctance of the international community to act concretely in the face of severe threats to peace. It is one thing to conceptualize and institute early warning systems; it is another to analyze and then take action based on the intelligence gathered. The resistance of the Sudan against international involvement in the war in Darfur is a case in point. The perpetuation of crimes against humanity right under the noses of the African Union’s peacekeepers is further confirmation of the inability to act in the face of such loss of life for whatever reason.

The principle of state sovereignty continues to under gird international relations. In the African context, where national boundaries were created less than 200 years ago, it is quite a challenge to recognize the rationale of most of these boundaries but next to impossible to redraw them. Therefore, states continue to act with impunity in committing crimes in the exercise of their sovereignty rights. Wars of independence have been fought without much regard to how the new independent states were being governed by their new rulers. Some African leaders began to legitimise internal war—or at least sympathize with rebels—during the Biafran civil war in Nigeria. Nyerere, one of the most formidable opponents of the redivision of Africa, changed his tune in favour of Biafra. A few years later, he found it expedient to invade Idi Amin’s Uganda.

Fortunately, the issues of human rights and state responsibility in the face of serious human rights abuses are beginning to be factored into the considerations that determine international action in any given crisis. The establishment of the International Criminal Court (ICC) and the recent trials of crimes against humanity in the former Yugoslavia, and now for Rwanda and Darfur, are a revolutionary development that provides limitations to sovereignty.

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<sup>37</sup> Chief Peter Gatwich Tiak of Pagak, at Lou / Gawaar Reconciliation, p. 31.

<sup>38</sup> Republic of the Sudan, p. 5.

## **8. Law and Order**

An often ignored perpetual risk to peace and security in Southern Sudan is the total breakdown in law and order in many parts of the region. Candidates to blame for this collapse abound and are identified in accusations such as the following: “the soldiers of the movement were the ones who ignited conflict because of the breakdown of law and order.”<sup>39</sup> It is generally agreed that the rise of the SPLA was simultaneously accompanied by a decline in the role played by the traditional forces of law and order, from paramount chiefs down to the least holder of traditional authority. What had generally taken place was that SPLA officers took over all forms of local administrative institutions, generally justified by the total dependence of the army on local resources.

Typically, the breakdown of law and order follows a similar sequence wherever it occurs. The replacement of traditional authorities by young and inexperienced gun-toting men set a fertile ground for criminal and anti-social behaviour. Traditional reverence for elders is lost and the gun’s status is elevated. Personal conflict soon escalates and becomes a clan war, and may rise to the level of tribal war depending on the identity of the originators of the conflict. The absence of an effective system for interdiction, confinement, and fair trial almost guarantees that the minutest personal conflict will almost certainly escalate.

Now that a CPA is in place, the promotion of law and order is going to be an urgent and vital activity if southern Sudanese are to settle down and improve their quality of life through engagement in productivity rather than aggression or armed violence. The UNHCR noted in 2004 that there were “no well-developed civil administration or law enforcement mechanisms [in southern Sudan]. All this is a source of concern for many of the refugees [who would not return home due to the prevailing lack of law and order].”<sup>40</sup> The recent South-South Dialogue in Kenya urged that the “security of the people of Southern Sudan be prioritised” and that they should be accorded “secure genuine inclusiveness, participation and equitable representation.”<sup>41</sup>

## **9. Discipline in the SPLA**

In one of the peace meetings among the Nuer, questions that they considered unanswered but nevertheless important included: Will the SPLM/A “form sound structures to deal with civil and military arms groups abuses of the peace? Will the New SPLM/A be better controlled and disciplined than the past? Will the SPLM/A respect the system of chieftaincy and civil administration?”<sup>42</sup> The verdict is clearly that the SPLM/A itself contributed a great deal to the lack of law and order. In many instances, what exists is a total “absence of strong governance systems” that results in the lack of “an agency that can enforce law and order.”<sup>43</sup>

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<sup>39</sup> Cdr. James Lul Tiem, at Lou/Gawaar Reconciliation, p. 26.

<sup>40</sup> UN High Commissioner for Refugees (UNHCR), Relief Web, 10 Feb 2004.

<sup>41</sup> The Covenant of the People of South Sudan.

<sup>42</sup> Gawaar and Lou Peace and Reconciliation Documents.

<sup>43</sup> Conflict triggers cited by PRDA for Lou Nuer Peace Conference.

## **10. Conditional Reconciliation**

While reconciliation along South African lines may be difficult to achieve due to the need to combine admission of guilt, retribution, and justice, most people who suffered injustice expect some appropriate action from the wrongdoers. A chief who had suffered abduction of members of his family pleaded: “Our request is to bring back the abducted children. I know my little girl Nyalony Riek Wan is now in Pul-Chuol village. We can forget properties but not children.”<sup>44</sup> In chorus, another rhetorically states: “If Chief Gatluak Thou is really genuine, why did he not bring with him two or three from the abducted children to convince us that he is serious? Why didn’t the husbands of our abducted girls come with some cows to pay for the dowry?”<sup>45</sup>

Indicating what would happen without the reunion of abducted family members with their parents, a bitter man warns: “For Chief Gatluak Thou, We will not give him an access through our areas unless you have collected back our abducted children.”<sup>46</sup> Failure to meet this demand would clearly be a risk to the person holding abducted children.

For the Nuer, things are complicated a bit by what are considered to be the prophecies of their great prophet Ngun Deng, who is said to have predicted many catastrophes to befall Nuer society. It is further held that peace would probably return to Nuerland only upon the return of his drums, taken during colonial times to Khartoum. Many Nuer, probably the majority, both Christian and non-Christian, strongly believe in these prophecies. A few hesitantly dismiss the prophecies as pagan beliefs that should be untenable by Christians. Such is the importance of prophets in Nuer lore that another, albeit seen as false by some, is said to have emerged and “managed to mobilize a large number of followers and waged war against the SSLM which was controlling Akobo in 2001.”<sup>47</sup>

## **11. Community-Level Conflict**

The widespread reports of intertribal and interclan violent conflict in all regions of South Sudan are a clear indication that this is an area that constitutes the most immediate threat to peace, even if such a threat may be confined to localities. Local conflicts can escalate to engulf a whole region due to the dynamics of political support or non-intervention, or even fanning by the government. The following example illustrates the risks to peace from a particular community conflict.

### ***a) Tore Peace and Reconciliation Conference, 7-11 April 2003***

In September of 2002, after the recapture of Torit by the GOS forces, many of the SPLA retreating forces decided to desert, for reasons that have not been officially disclosed by

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<sup>44</sup> Ex-Chief Koang Chany Monyor of Wau, at Lou/Gawaar Reconciliation Conference, p. 10.

<sup>45</sup> A sub-chief at Lou/Gawaar Reconciliation Conference, p. 11.

<sup>46</sup> H/Chief Tuong-Guar Both Nien of Ayod, at Lou/Gawar Reconciliation Conference, p. 16.

<sup>47</sup> The prophet was identified as one Gai Manyon Reak.

the SPLA itself. In their journey home from the Torit area to western Equatoria, they left a path of destruction. In Tore Payam, situated between Yei and Maridi, they committed some of the worst atrocities in which “young women and girls were abducted and there was widespread rape, causing many to be traumatized.”<sup>48</sup> Murders were committed, looting of property and burning of houses took place with impunity. The deserters who travelled in large numbers had passed through Yei town, the headquarters of the SPLA, without being confronted. With practically no government in Tore, they could do as they wished.

These criminal activities resulted in tensions between the Baka tribe, members of which were the majority of residents in Tore, and the Azande, the tribe to which most of the westbound deserters were assumed to belong. The purpose of the Tore conference was to assess the damage done and to find ways of dealing with the problem. Shopkeepers were promised compensation for their destroyed shops and women were promised counselling and testing for sexually transmitted diseases.<sup>49</sup> To date, none of these promises has been fulfilled, raising the degree of bitterness in Tore.

#### ***b) The Kidepo Valley Peace and Reconciliation Conference, 14-15 April 2003***

An insert in the report summarizes the problem of the valley as one in which “sections within these rival ethnic groups have plummeted into self-perpetuating cycles of violence, cattle raiding, banditry and killing.”<sup>50</sup> At the time of the conference, it was estimated that 10 murders were committed each week. Abductions of children, cattle raids, and related loss of human life were among the most common crimes in the intertribal conflict. Abductees were kept for wives and cattle were taken for sale in Uganda. In very frank exchanges elements of the SPLA were constantly implicated in personal testimonies.

There was near unanimity in calls made for the return of children and property, and demands that culprits, many of whom were known, should be apprehended and dealt with severely. Apart from the urgency to institute effective governance, the greatest expectation was for joint “border” patrols, composed of members of the tribes of the valley, to be immediately deployed.<sup>51</sup> More than two years after the conference, none of these measures has been implemented, with the exception of Torit County where a tough new County Secretary has made a big difference by passing extraordinary regulations to curb crime.

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<sup>48</sup> Background, in Report on the Tore Peace and Reconciliation Conference, p. 3.

<sup>49</sup> Refer to the Report for details.

<sup>50</sup> Report of the Kidepo Valley Peace and Reconciliation Conference, p. 2.

<sup>51</sup> All over South Sudan, evidenced in various conference reports, demands are made for “border” patrols, i.e., patrols of borders between ethnic groups or even clans.

### *c) Lokoya and Olu'bo Communities of East Bank, Equatoria, 13-17 January 2004*

The report of attempts to reconcile these two communities, with incredible examples of what a breakdown in law and order entails, makes very interesting reading. The narrative of causes of conflict goes back over 40 years to 1962-63. Among the more destabilizing incidents were the alleged discriminatory court rulings of the then Lokoya chief in cases involving members of the Olu'bo community. Hostilities that broke out in 1976-77 arose from a hunting incident. "The cause of the conflict was about an animal: a brown antelope (Gure), which was killed by the arrow of one of the Olu'bo and crossed over to the territory of the Lokoya, where he [the Olu'bo hunter?] was killed by the Lokoya. This led to violent death of two people."

In 1996, "a group of Olu'bo armed men were mobilized by Cdr. Lobi Alatu to raid Ngulere village, a village in western Lokoya.... It is believed that 48 people died in Aru and Lomer during a dancing ceremony, most of them being women and children. *The Conflict has not been resolved to date*"<sup>52</sup> (italics for emphasis).

Among many of the cultures of South Sudan, lewd songs have been a weapon guaranteed to provoke one's opponent to irrational fury and so leading to war. Although this has never been proven, the killing of 48 people at a dance in Bahr el Ghazal was most likely the result of the singing of a nasty song. Hostilities between two communities were raised to dangerous levels as the song graphically described how the women of the opposing community were now moving about astride bicycles, implying unacceptable sexual behaviour.

The above are typical of the interethnic or intercommunity events that sooner or later culminate in violence, especially where elders no longer play their traditional advisory roles, young officers have taken over community command, adjudicators are uninvolved, and guns for effective war are plentiful.

## **12. Quelling Community Conflict**

### *a) Calls for Disarmament*

From official reports to the minutes of community meetings, the overall sense is that all parties to the conflict are tired of war. All communities complained of the proliferation of weapons, especially those in the hands of children. But, the most common reservation concerns unilateral disarmament – a view which may be summed up as: "if we disarm alone, our enemies will take advantage of us." In places where partial disarmament took place (e.g., Central Bahr el Ghazal), weapons were returned for the security of the community. Any disarmament program will fail if the government does not provide ample security for all, or if militias continue to be armed.

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<sup>52</sup> Draft Report of the Peace and Reconciliation Conference of the Lokoya and the Olu'bo Communities, p. 10.

### ***b) Calls for Policing Conflict Areas***

Time and again, participants at reconciliation conferences have called for the policing of conflict areas. Many believe that border areas, especially those through which raided cattle and abducted children are taken, ought to be policed by joint forces of the communities that border each other. It is generally thought that either the communities concerned do not trust each other, or local commanders do not have enough enforcement power.

Water points also account for many incidents of violence. Communities who claim control of the water point may attempt to enforce a monopoly in usage. Persons with outstanding grievances against each other may meet here. Or, there may simply be insufficient water without agreement about who has priority.

The same applies at what are commonly referred to by the Nilotics of South Sudan as the “toch.” These are areas that are generally underwater during the rainy season, but become green meadows during the dry season, ideal places for grazing. The longest toch extends from Twic-Mayardit County in the far northwest of Bahr el Ghazal to its easternmost point at Yirol. This is the area in which most of the internecine wars of Bahr el Ghazal took place in the last two to three years.

Another is located in the border area between the Dinka Bor and their Gawaar Nuer neighbours. Without exception, it is also an area where much conflict has taken place. The Lou Nuer have neither significant water points nor grazing toches of their own and often they have to force their way into the toch, with predictable outbreaks of violence.

Calls for the policing of these areas have either gone unanswered or too few forces have been sent.

### ***c) Calls for law & order***

In years past, with every community having chiefs and subchiefs of all categories, the delivery of justice tended to be immediate. If there were any delays at all everyone understood: either it was cultivation season or the chief was indisposed, etc. With the ascent of the SPLM/A into the administration of the liberated areas, the civil-military administrators—who tended to be officers—took over administering justice. Judicial jurisdictions tended to be too large. However, this meant that the officer in charge could earn more through fines. Justice, if it could at all qualify as such, favoured the party that could manage a larger kickback.

The establishment of the judiciary of New Sudan was at first welcomed, as much needed relief. Unfortunately, two factors almost immediately eliminated whatever advantages it was believed to carry: 1) the judiciary was allowed by the SPLM leadership to keep court fines for its administration as there was no SPLM budget for the judiciary; and 2) the judiciary was, and still is, severely understaffed. It simply did not have enough lawyers

and judges for the task. The judiciary could not fill the vacuum created by sidestepping hundreds of traditional judicial authorities.

As many will claim, the collection of fines almost became the *raison d'être* for the judiciary, with resulting acrimony. The judiciary attempted to deal with the numbers problem by creating what it called “mobile courts.” These consisted simply of a judge who was assigned the responsibility for travelling to different locations to hear cases in rotation. Unfortunately, with the increasing violence all over South Sudan, no sooner had a judge attended to the judicial needs of an area than fresh cases in need of immediate attention cropped up. The overall consequence was the continuation of the delay of justice, since traditional chiefs were rendered almost irrelevant. The dictum that “justice delayed is justice denied” was observed in practice and led to increasing incidents of the wronged meeting out their own vengeance.<sup>53</sup>

#### *d) Calls for the Restoration of Traditional Law and Courts*

Practically all South Sudanese living in violence-prone areas, where the cycle of vengeance has become the method of choice for achieving justice, believe that a return to traditional law and courts would avert the continuation and further escalation of violent conflict. In populations with no cattle, a return to traditional judicial systems is feasible in the near future. The GOSS parliament will have to find time to tackle such a task once it begins to function under a post-CPA government.

### **13. An Example of a Conflict Management Project**

Noting that violent conflict has become commonplace among many communities of South Sudan, USAID became the first international governmental agency to provide funding for peacebuilding activities in the region. The project provided for the direct involvement of communities in peacebuilding rather than the use of armed forces or formal governmental institutions to restore peace.

In the study commissioned by PACT to evaluate the effectiveness of community peacebuilding, the author came up with a conflict resolution model that is inclusive in its approach.<sup>54</sup> The group identified as critical to any peacebuilding effort within or between communities community members themselves: the Peace Committee of the community, the Local Authority, the Traditional Courts, and, finally, the Constitutional Courts.

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<sup>53</sup> For more detailed discussion, see Alfred S. Lokuji's discussion of traditional and modern conflict resolution mechanisms, in his study, *Peace Building & Good Governance in South Sudan: Past Performance & Future Prospects*, PACT, Nairobi, 2005, pp. 21-23

<sup>54</sup> See Figure 1: Institutional Conflict Management, reproduced from the study referenced in footnote 53 above.

### ***a) The Community in Conflict***

When two or more individuals in a community are in conflict, community elders and relatives themselves can play a role, as any violence will touch upon all those associated with the parties to the conflict. In such tight communities, intra- and intercommunal conflicts are hard to hide. In seeking to secure support against the opponent in the other community the person feeling aggrieved will usually confide in members of his own community. This presents an opportunity for those who would like to prevent any disagreement from turning violent and escalating through the mobilization of relatives and other community members. At this stage peacebuilders, such as Peace Committees, come into play to suppress or avert an eruption of violence.

### ***b) Peace Committees<sup>55</sup>***

Members of the Peace Committee, individually or jointly as the case may warrant, immediately begin consultations with those involved as soon as they hear of a situation that may potentially become violent. If those in conflict are members of the community they also carry out consultations with their relatives and community elders who might be able to positively influence the parties to the conflict to avoid any violence. Should the other party to the conflict be a member of another community, the Peace Committee is expected to make both formal and informal contacts with their counterparts in the other community. In the event that they all (Peace Committee members, relatives and elders) sense that their contacts cannot make a difference—especially if some have become participants in the conflict—they alert the local government authority, especially those charged with maintaining the peace.

### ***c) The Local Authority***

Appeal for the assistance of the local government authority in averting conflict signals the likelihood that violence will occur if the government does not become involved. Security agencies can avert the eruption of violence by increasing security in the areas where violence might erupt: at the toeh, dances, water points, border areas, or whatever locations intelligence gathering indicates are the most likely.

In the event that security measures are not taken immediately and one or both parties have been involved in criminal activities, it is still the obligation of the security forces to suppress further conflict or its escalation. Immediate remedial action should be taken against the person or persons who have committed a crime. Charges should be made and referred to either traditional courts or the constitutional/statutory courts of the New Sudan, depending on the governing law.

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<sup>55</sup> A body composed of reputable members of the community who are tasked with leading the community in averting violence through active consultations and in coordination with all involved.

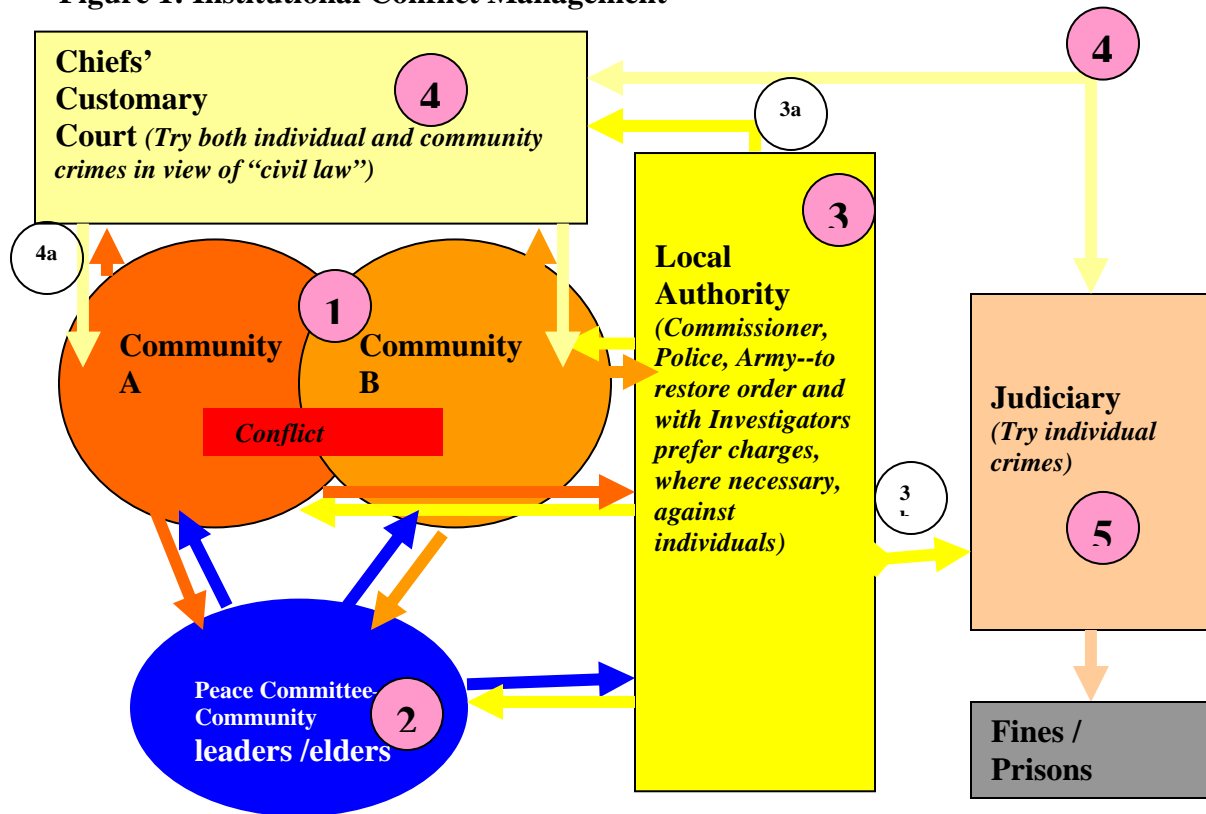
*d) The Traditional Courts*

Cases referred to the traditional courts by the security organs require urgent attention—in comparison to civil suits such as those to do with payments of dowry, return of property loaned, etc. Chiefs and members of their communities are quite sensitive to what is considered urgent. Traditional courts may deliver rulings or refer cases to the constitutional courts should they feel incompetent to adjudicate a particular case. Any party that disregards rulings of the chiefs’ court is sending a strong signal that other alternatives are being considered, such as acts of vengeance, to be carried out singly or in unison with sympathizers, including, but not limited to, age-mates as determined by initiation rites.

*e) Constitutional Courts*

When all other avenues have been explored the case should come before the constitutional courts. These courts should be used in cases where their original or appellate jurisdiction is not in question. Failure to be perceived as the final arbiters of justice carries the high risk of promoting extra-judicial behaviour.

**Figure 1: Institutional Conflict Management<sup>56</sup>**



<sup>56</sup> Alfred Sebit Lokuji, Peace Building and Good Governance in South Sudan, A Pact Study, March 2005. This figure is a simplified illustration of what needs to be consistently done so that peace prevails and due attention is given to the development of all communities.

## **14. Disarmament, Demobilization, and Reintegration (DDR)**

Borrowing from similar situations elsewhere in the world, the international community, in collaboration with the Sudanese authorities, places great stakes on disarmament, demobilization, and reintegration (DDR). The post-war DDR program in Sudan is organized by the United Nations Development Programme. The question is: Whose disarmament, demobilization, and reintegration?

The exact number of SPLA forces remains unknown. However, guns and ammunition remain in circulation. The CPA will remain fragile if large numbers remain armed, consider themselves active soldiers, but operate outside the purview of government. Indeed, as the militias of the government in Upper Nile have shown, a few men with automatic weapons, who are assured of a continuous supply of ammunition, ensure that the civilian population continues to suffer.

Cognizant of risks latent in the presence of armed groups, the conferees at the South-South dialogue urged all parties with armed groups under their control to adhere to the ceasefire and DDR program.<sup>57</sup> Thus, the DDR program has been given high priority.

### ***a) Demobilization***

To clarify, demobilization singularly applies to members of the armed forces, SPLA or others, who are to leave the army and be reintegrated into civilian life. Although there will be many happy to leave it must be recognized that thousands of SPLA soldiers of all ranks have had no non-military experience. And, while demobilization itself would remedy the problem of maintaining a large standing army, it raises concerns about those for whom leaving the army will be traumatic. Disarmament for this group needs to be applied with equal energy and urgency.

### ***b) Disarmament***

Justifications for the disarmament of civilians and the militias include allegations that they are not trained in the proper use of the weapons they possess. Another justification is that they have a tendency to misuse these weapons, as evidenced by the ubiquitous wars pitting one community or clan against another. The demobilized soldier who has not been disarmed may use his gun, not only against another community, but also against the government in power. This fear has a solid basis.

A Nuer conference participant in the Lou/Gawaar reconciliation dialogue cautioned his fellow Nuer thus: “The authority must also observe that disarmament should not be partial only on the side of the Gawaar alone—without the Lou armed men. You Bol Kong, you must know the Murle have their weapons and their targets are Nuer. How

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<sup>57</sup> Press Release, South-South Dialogue, 21 April 2005.

would you tackle this question?”<sup>58</sup> With that, the point was driven home that disarmament will not work if it is perceived to alter the balance of power in any given area.

For a disarmament exercise to be effective, there needs to be accurate data about the numbers of those who have been armed and the degree to which they have been armed (how many and what types of weapons). The demobilization and disarmament incentives will have to be sufficiently attractive to make the entire DDR program successful, including the process of reintegration.

### ***c) Reintegration***

Given the population movements in the Sudan, it is unlikely that the demobilized will go back to their villages and communities. Many have been exposed to other ways of life and making a living and are, instead, likely to gravitate towards an urban centre. Investments in programs to welcome these people at the village and community levels are likely to be wasted should a majority choose the city over the village.

Secondly, given that the majority of these ex-combatants have never been trained for an alternative career in the economic production or service sector, there is a question of how they will sustain themselves if they opt for reintegration into urban areas. The risk of social disorder—high unemployment accompanied by high incidents of crime—is significant.

## **15. Conclusion**

This paper sought to provide a general overview of the main challenges to the CPA and where these could impact the South Sudan more specifically.

The CPA is an historic achievement and on it is pinned the hope of the entire Sudanese nation for a lasting peace. But, it is not without fault. The issues examined and raised in the foregoing pages indicate some of the challenges and obstacles to peace it poses and inspire the reader to engage in further and more detailed enquiries about the risks to peace if they are not adequately addressed.

It will be important for the leadership of the GOSS to give inclusiveness of government a high priority. There are armed groups, militias, factions, ethnic groups, and others who are adamant that they too contributed to making the agreement a success. If they perceive

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<sup>58</sup> H/Chief Gatpan Nien Nguan, at Lou/Gawaar Reconciliation Conference, p. 15.

actions on the part of the government that suggest otherwise the peace could be shattered at any time.

The cracks are already beginning to show. An observer at the current talks at the Kenya School of Law in Karen came away with the impression that things were not going well. The demand by factions not allied to the SPLA that the army of South Sudan be renamed South Sudan Armed Forces instead of SPLA was rejected outright by Dr. John Garang and his delegation. The adamant insistence on one name over another set a negative note in the process of reconciliation between the SPLA and its opponents.

Reconciliation between factions is necessary to heal the wounds of war. In furthering the cause of reconciliation, reparations for losses of property such as cattle, land, and homes may be necessary to soften the bitterness of those who felt their contribution was unduly disproportionate.

In the anxiety of the emerging levels of government to prevent a recurrence of war, they are likely to take compulsive action to curb the possession of weapons. The regulation of weapons, rather than outright banning, may be the answer. Societies accustomed to the ownership of guns as the preferred means of defence are not going to change their minds overnight just because a new law has been passed.

Finally, by far the best option for preserving the peace is the promotion of rapid economic development.

The motives of the Arabs and other non-southern Sudanese groups may be questionable, but GOSS responses will matter most to assure South Sudanese that they truly have their own government, and prevent a new violent flare-up.

Time and resources on further research to explore these challenges are needed to contribute to positive policy development that will ensure a lasting peace in the Sudan.

## ANNEXES

### a) Sample Research Questions

#### 1. The North-South Conflict

- Is the North-South Conflict a “one-dimensional regional” problem or is it a manifestation of a “systems problem” of governance in the entire Sudan?
- From a northern Sudanese perspective, what critical factors determine the position to fight southern Sudanese secession?
- Are views on the North-South Conflict discernible in terms of Arab, Islamic, European, American, or African politics?

#### 2. Marginalization

- What are the positivist (as opposed to normative) dimensions of marginalization?
- Does marginalization impact upon the South Sudan differently than it does in other equally impoverished regions of the Sudan? Why or why not?
- What are the marginalization factors that ignite rebellion, and at what point?
- Using experiences from similar regions of the world, what are the critical measures that could be applied to avert wars arising from perceived marginalization?

#### 3. South-South Conflict

- Exploratory research to classify conflict in South Sudan during the SPLA war, 1983-2005.
- What were the dominant reasons for turning against the SPLA and what were the results of such postures?
- How did the SPLA deal with opponents?
- What are the prospects of a lasting reconciliation between the SPLA and its opponents?

#### 4. The Declaration of Principles

- A thorough analysis of the meaning, interpretations, implications and modalities of implementation of the phrase, “That the people of South Sudan have the right to self-determination, *inter alia*, through a referendum to determine their future status.”
- What are the legal hurdles or challenges in defining the “People of South Sudan”?
- What possible interpretations does this phrase permit and what are the implications of each interpretation for the peace process?

#### 5. Power Sharing

- Is there a shared understanding of “power sharing” between the SPLM and the NCP; if not, what are the implications for sustainable peace in the Sudan?
- To what extent does the SPLM’s paradigm of autonomy converge with the NCP’s practice of governance through states?
- Examine the pitfalls of power sharing in the context of South Sudan society.

## 6. Wealth Sharing

- Examine the wealth-sharing agreement in the context of center-periphery relations in the Sudan.

## 7. Security Arrangements

- Given the general powers of the Presidency of GOS as well as GOSS as they pertain to the armed forces (especially their roles as C-in-C), under what circumstances might the two presidents conflict?

## 8. Armed Groups/Militias

- What might be the theoretical, common, or Sudan-specific definition of these terms?
- Analyze their causes, origins, structure/leadership, and objectives.
- In what ways do they threaten the peace?

## 9. External Threats to Peace

- Analyze the various external threats to peace in the Sudan: regional instability (e.g., LRA, DRC), Egyptian/Libyan interests, Arab/Islamic interests, sub-Saharan African interests, Western interests, oil industry interests, etc.

## 10. Law and Order

- What are the implications of the absence of general law and order on peace in South Sudan?

## 11. Community-Level Conflict

- Given recent events in all the regions of South Sudan, especially central Bahr el Ghazal, central Upper Nile, Eastern and Western Equatoria, what types of community conflict might escalate to endanger the peace in South Sudan?

## 12. Restoration of Traditional Law and Courts

- A full examination of how traditional society maintained community peace.
- What are the dangers of superimposing modern systems on traditional society?
- What are the lessons that can be drawn from the speedy replacement of traditional law and courts in South Sudan?

## 13. Disarmament, Demobilization and Reintegration (DDR)

- Analyze the objectives, modalities, targets, and effectiveness of DDR in South Sudan.

## **b) Dr. John Garang's Death: Implications**

*(Added August 11–15, after the death of Dr. Garang on July 30, 2005)*

### 1. Leadership Style

- Garang's leadership style played a major role in the outcomes of SPLM/A programs and actions. What are the implications of change in leadership for SPLM/A and GOSS programs and actions?

### 2. Salva Kiir Mayardit: A New Kitchen Cabinet

- It is no secret that the SPLM/A is believed to have been run by a powerful kitchen cabinet. Given that Cdr. Salva Kiir Mayardit was an outsider in Garang's kitchen cabinet, what are the prospects and implications of his developing his own, or resisting its creation?

### 3. Structures of the SPLM

- Structures of the SPLM, including those for governance, tended to change frequently in non-institutionalized modes; what are the prospects for change?
- There has been a general tendency to create pro forma structures and to assign duties without expectations of performance; explore how this happened, with examples, and then examine prospects for change.

### 4. Decision-Making in the SPLM without John Garang

- John Garang's decision-making style was highly personal, with the former NEC and the latter LC playing support rather than central roles. What are the prospects of this decision style changing for the better or the worse?

### 5. The Anti-Garang Forces

- It is likely that John Garang's most virulent opponents will now attempt to consolidate themselves and take the pole position in the race for primary access to the new leader; develop and critically examine the likely scenarios.

### 6. Garang's Kitchen Cabinet

- What are the scenarios of the survival strategies of Garang's kitchen cabinet?
- What distinctions, if any, might Salva Kiir Mayardit make with regard to Garang's kitchen cabinet and the formal SPLM leadership?

### 7. Establishment of the Government of South Sudan

- It is as yet unclear as to how advanced preparations for the establishment of the government of South Sudan are. What might be the impact of the change in leadership on these preparations (as well as those for the establishment of the Government of National Unity—GNU, the States, and Counties)?
- What are the considerations that Kiir Mayardit must make with regard to equitable representation, other armed groups and militias, etc.?

### 8. Jonglei-Eastern Equatoria-Bahr el Jebel-Western Equatoria Tensions

- The past few years have seen ethnic tensions between Dinka Bor and the Moru in the Mundri area of Western Equatoria, with the Mundari in Bahr el Jebel, with the

Lou and Gawaar of Upper Nile, and with the Didinga (and to some extent the Toposa) in Eastern Equatoria. What are the prospects of and approaches to initiatives by Mayardit to quell such tensions and restore normalcy to interethnic relations?

- It has been alleged that many of these tensions have been fuelled by Bor commanders who have been able to act with impunity due to assumptions that they had the support of the top leadership. Critically examine the prospects of establishing the truth about such allegations and explore the possibility of adopting measures to correct mistakes if allegations are found to be true.

#### 9. Southern Sudanese Unity

- The wide bereavement over John Garang's untimely death seems to suggest the unity of the South Sudanese as a primary outcome. What are the factors that seem to seal South Sudanese unity and in what manner?
- Develop and then critically examine scenarios within which peace and unity among the South Sudanese are achieved.