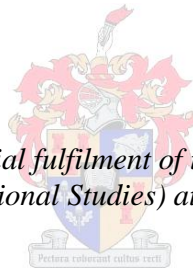# Beyond Secession:
A Critical Analysis of the Comprehensive Peace Agreement and the Peace Process in Sudan

by
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Declaration

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31 October 2012

Abstract

One of Africa's longest civil wars ended for the second time in 2005, when the leaders of the government of Sudan and Sudan People's Liberation Movement and Army signed the Comprehensive Peace Agreement. This action initiated an interim period which culminated with a referendum for the people of Southern Sudan, to decide if they wanted unity or to secede from the north. Through using theories of power sharing and secession this thesis argues that the Sudanese conflict is not resolved after the referendum in South Sudan. The focus of this thesis is to illustrate how the first peace agreement in 1972 failed to deal with root causes and to implement structures that would be acceptable for that part of the population which did not identify with the central elite. Lessons from this process are integral to understand why the secession does not provide the autonomy and prospects of peace that the South and the negotiators intended. This study will provide a thorough assessment of the process from the failure of the Addis Ababa Agreement in 1972 to the making of- and contents of the Comprehensive Peace Agreement in 2005. Although there are many positive aspects to the recent agreement, this study will reveal how the North will keep asserting its dominance through controlling the oil sector and using the unresolved border areas for political gain. In addition, the new structure has changed power structures in both areas, which has left many opposing groups in Sudan in a worse situation than before; thus, the further marginalized people in Darfur, the Nuba Mountains and the Blue Nile are the real losers in the post-CPA era. As often portrayed, the peace in South Sudan does not only depend on development, but on external influence from the region and especially their relationship with the regime in Khartoum, despite the construction of an autonomous state.

Opsomming

Een van Afrika se langsdurendeburgeroorloë het vir die tweedekeergeëindig in 2005, toe die regering van Soedan en die SoedaneseBurgelikkeVryheidsbewegingen Weermag die *Comprehensive Peace Agreement* (CPA) onderteken het. Hierdieooreenkoms was die begin van 'n interim-tydperkwatuitgeloophet op 'n referendum vir die bevolking van Suid-Soedan, waarinhullemoesbesluit of hullewouafstig van die noorde. Deurgebruiktemaak van teorieëopmagsdeling en afstigtinglighierdietesis die meningdat die Soedanesekonfliknieopgelosisna die referendum in Suid-Soedannie. Die fokus van hierdietesis was op die illustrering van hoe die eerstevredesooreenkoms van 1972 gevaal het om die sleuteloorsakevan die konflikteondersoek en omstrukture in plektestelvir die gedeeltes van die bevolkingwatnie met die sentrale elite geïdentifiseerhet nie. Die lesse van hierdie proses is integraal in die verstaan van hoekomoutonomie en vooruitsigte van vredeniein die Suidekanvoortspruituit die afstigting van Suid-Sudansooswat die bedoeling van die onderhandelaars was nie. Hierdiestudiesal 'n deeglikkeasseseringdoen van die proses tussen die Addis Ababa Ooreenkoms van 1972 tot en met die sluit van die *Comprehensive Peace Agreement* in 2005, asookop die inhoud van hierdieooreenkoms. Alhoewel die nuweooreenkomsbaiepositieweaspektebevat, sal die studietoon hoe die Noorde steeds sydominansiesalkanhandhaaf, virpolitieke wins, deurbeheeruitteoefenoor die oliesektor en deuronopgelostegrensgeskille. Daarbenewens het die nuwestruktuurveranderdemagstrukture in beidegebiedeteweeggebringwatnougelei het tot 'n somsslegtersituasieviroposisiegroepebinne Sudan; dus is die verdergemarginaliseerde Darfur streek, die Nubagebergtes en die BlouNyl die waareverloorders van die na-CPA era. Soosdikwelsuitgebeeld word, sal die vrede in Suid-Soedannie net afhang van ontwikkelingnie, maarook vaneksterneinvloedevanuit die streek en veralvan hulverhouding met die Khartoemregime, ten spyte van die konstruksie van 'n outonomestaat.

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Contents

List of acronyms

ABC: Abyei Boundaries Commission

AMIS: African Mission in Sudan

ANC: African National Congress

AU: African Union

BOSS: Bank of Southern Sudan

CBOS: Central Bank of Sudan

CDR: Convention pour la défense de la république

CJMC: Ceasefire Joint Military Committee

CSAC: Community Security and Arms Control Bureau

CSI: Christian Solidarity International

CPA: Comprehensive Peace Agreement

CPC: Ceasefire Political Commission

DDR: Disarmament, Demobilization and Reintegration

FDI: Foreign Direct Investment

FFAMC: Fiscal and Financial Allocation and Monitoring Commission

GDP: Gross Domestic Product

GNU: Government of National Unity

GoS: Government of Sudan

GoSS: Government of Southern Sudan

HRW: Human Rights Watch

ICC: International Criminal Court

ICG: International Crisis Group

IGAD: Intergovernmental Authority on Development

JEM: Justice and Equality Movement

JIU: Joint Integrated Units

LRA: Lord's Resistance Army

MSF: Médecins Sans Frontières (Doctors without borders)

NATO: North Atlantic Treaty Organization

NBS: National Bureau of Statistics

NCP: National Congress Party

NLC: National Land Commission

NPC: National Petroleum Commission

NRF: National Revenue Fund

PCA: Permanent Court of Arbitration

RPF: Rwandan Patriotic Front

SAF: Sudanese Armed Forces

SLA: Sudan Liberation Army

SPDF: Sudan People's Defense Force

SPLM: Sudan People's Liberation Movement

SPLM/A: Sudan People's Liberation Movement/Army

SSDF: Southern Sudan Defense Force

SSLC: Southern Sudan Land Commission

UN: United Nations

UNAMID: United Nations Mission in Darfur

UNMISS: United Nations Mission in South Sudan

US/USA: United States of America

USD: United States Dollar

Chapter 1: Introduction

1.1 Historical context to the study

Sudan is a country which has a long history of conflict and separation, which can be traced all the way back to 2700 BC, when this area was known as the Cush, and was in conflict with Egypt and Assyria. Political control over the area was more or less linked to Egyptian authority, until the year 750 BC, when the Cushite king Kashta who ruled the area as independent and even conquered North Egypt. By the year 600, the Cushite kingdom was pushed further south, close to where Khartoum is today and developed independently of Egypt. Religion and ethnicity is important aspects of separation in the area of and around Sudan. Islam was highly influential in this period, with impulses and pressure coming from Arab merchants and Egyptian forces. In 1093, a Muslim prince with Nubian ethnicity became king of Dunqulah. Some ethnicities embraced the Muslim religion and made it an important part of their heritage. On the other hand, other areas and ethnicities took influence from the Byzantine Empire and attached Christianity to their cultural heritage (Metz 1992:3-17).

Modern Sudan has been influenced strongly by the British administration that was imposed through the Anglo-Egyptian Condominium in 1899, which functioned as a joint authority agreement between Britain and Egypt, to rule over Sudan. This enforced the historical separation between the North, where the majority was predominantly Arab and Muslim, and the South where the majority were of Christian or other beliefs including most traditional beliefs. During the colonization, it was created a physical buffer zone between the North and the South, to prevent spread of malaria and other diseases, but also to stop the spreading of Arab and Muslim influence to the South. However, Sudan has always been treated as one country, and when independence from the British rule became apparent to the Sudanese people in 1955, a civil war between the North and South broke out. The South wanted independence, whilst the North wanted a unified country lead by the North (Metz 1992:21-25).

To this day, there have been two peace agreements with the option of secession, the first one from 1972 to 1983. The second one, the Comprehensive Peace Agreement (CPA) was officially concluded and signed on 9 January 2005 and culminated in a referendum in January 2011, where Southern Sudan opted for secession again. One of the main architects of the CPA was Dr. John Garang de Mabior, who founded the Sudan People's Liberation Movement and Army (SPLM/A), which was a Southern based movement. His objective was

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not secession, but the creation of a new Sudan founded on the principles of equality, secularism and democracy (ICG 2005:5). His philosophy was that Sudan could become one united country and that the dichotomy between the North and the South was constructed (Deng 2005:6). The people of the North was still of black African descendant in his eyes. Garang's inclusive approaches made many Northerners start to question the Arab identity to the point that the governing elite had to counter these doubts with a tougher focus on Islam to recreate a common identity and remobilize support. Despite Garang's visions of a unified Sudan, the majority of the Southern Sudanese people opposed this idea, including the majority of the SPLM/A. Garang died in 2005 in a helicopter crash, changing the dynamic of the post-CPA process. In January 2011, the people of South Sudan voted almost unanimously for secession, which are to be implemented in July. This result has been accepted by Omar al-Bashir, the President of Sudan.

1.2 Aims and significance of the research

Recent literature paints a picture of a South Sudan with sundry challenges. Lack of an adequate security regime has enabled an escalating level of internal violence; lack of appropriate border control along the vast borderlands enabled the Lord's Resistance Army to cross the border from northern Uganda, looting and raping local villagers, killing civilians and local police; clashes between the Sudan Armed Forces and Joint Integrated Units in Abyei (Rolandsen 2010:1, McEvoy & LeBrun 2010:27, Johnson 2011:1). These tendencies indicates that the future of the newly seceded state is based on a weak foundation, there are little experience with state building and continuation of it, with the further degenerating factor of little revenue from anything else than oil production, which still is very much dominated by the North through infrastructure and contestation of oil fields (Global Witness 2009:4-5). The indications that emphasize on many levels in society are all happening within a larger context and a structural setting. There has been little focus on these structures, which according to the argument in this thesis, still prevails after the CPA.

Professor of International Relations at the United States International University in Nairobi, Kenneth Omeje (2010:3) criticized commentators and stakeholders to focus more on immediate issues like the schedule of the referendum, if al-Bashir would honor the agreement or who gets what. These are all important questions and it is logical for research to focus on critical issues when a situation is so uncertain. Therefore, there were no comprehensive study

of how the power structures will change after the secession and what parts of the root causes and connected issues will still be contentious after the CPA. It's is important to develop new research on post-CPA Sudan, to convey the complexity of the conflict *per se* and to show how the important issues can remain unresolved despite a physical separation and the creating of a nationality. Aleksandar Pavković and Peter Radan (2007:3) captures this problem when they state that "to regard a secession solely as a liberation from oppression or violence fails to capture the complexity of the interaction between the secessionists, their leaders and their opponents in the state from which they want to secede".

This study aims to provide a thorough understanding of the Sudanese conflict, from the root causes to how the dynamic changes with the increasing importance of oil in the economy, with a change in attitudes in the international community. Further, the aim is to utilize this knowledge in order to assess whether the CPA addressed these important issues properly. Through using this descriptive and encompassing approach, combined with a theoretical framework of power sharing- and secession theory the conclusive aim will be to identify how North- and South Sudan will continue to have an intricate relationship with each other after the secession and where the CPA failed in addressing issues that will stand out as potential sources of future conflict.

1.3 Identification of the research problem and problem statement

In order to address such a broad subject, this section will provide a specification of the research problem; the problem statement; and the theoretical framework intended to be applied in this thesis. As well as limiting the scope of the study, this section will also deal with all that relates to research methods, when it comes to design, reliability and validity, structure and challenges to this kind of research.

1.3.1 Problem statement

What caused the failure of the Addis Ababa Agreement, which set off the violent conflict in 1983? This question is essential in order to assess the 2005 Comprehensive Peace Agreement in a meaningful manner. Experts on the Sudanese conflict and history have contributed a great deal to this topic, reaching various conclusions; whereas Harir (1994:10)

emphasize the clash of cultures and interests that creates political marginality which the central Arab elite impose on the rest; Rogier (2005:V) argues that power-sharing issues has been central in both wars; while (Tvedt 1994:68) describes a structural problem where the state, civil society and the international aid agencies failed massively to create any kind of sustainable state service. This thesis will use a descriptive analysis of the most important works that have been produced when it comes to identify these sources of conflict. Although this is not a comparative analysis, the aim is to identify similarities from the first peace agreement with the Comprehensive Peace Agreement in order to address root causes. It is important to emphasize at this point that although the two peace agreements were done between the North and the South, the two cannot be compared directly, because of two main reasons: a) Different people agreed on the respective agreements; President Nimeiri and the Anyanya in 1972; President al-Bashir and the SPLM/A in 2005. b) Different variables had different impact on the peace process, one example of this is how oil was an irrelevant issue during the first civil war in 1972, but became a contentious issue in 2005. Another example is how the international community had a completely different approach to intervening in civil conflict in 1972 compared to 2005, where the genocides in Sbrenica and Rwanda set precedence for a more interventionist approach.

Although much changed between the two peace agreements, that doesn't mean that some of the most important sources of conflict has changed. This thesis will go even further, in arguing that despite the South deciding by referendum to secede from the North, the conflict has not changed fundamentally. Lesch (1998:3) propose that "Racial, linguistic, and religious categories have hardened and become the basis for crucially important power relationships that have resulted in the peoples who live in the northern and central Nile Valley wielding disproportionate political and economic power". Thus the motivation for this thesis is to analyze the Comprehensive Peace Agreement through a contextual- and a theoretical framework based on power sharing and secession.

1.3.2 Research question

With regards to the problem statement, the limits to this study will be confined by two primary research questions whereas the second have two parts. They both relate to specific chapters in the thesis which in turn relates to each other:

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1. To what extent does secession have the potential to change the power sharing relationship between North Sudan and South Sudan?

2a. Did the Comprehensive Peace Agreement address the sources of conflict?

2b. What sources of conflict remain unresolved after the Comprehensive Peace Agreement?

1.3.3 Conceptualization and operationalization of key concepts

Secession: From Latin, the word translates to 'se' which means 'apart' and 'cedere' which means 'to go', which gives the connotation of leaving or withdrawing from a place. In the English language this word has lost its meaning when it comes to any other meaning than "formally withdrawing from an alliance, a federation, a political or religious organization or the like" (Pavković & Radan 2007:5). For the use in this thesis, the concept is regarded as a process that has a formal constituting act of a referendum and the formal acceptance from the leader of the existing state. The concept is operationalized by the definition of Pavković and Radan (2007:5): "Secession is the creation of a new state by the withdrawal of a territory and its population where that territory was previously part of an existing state".

Power sharing relation: The concept of *power sharing* refers to "a coalition of two or more political parties which from the Executive" (Wilford 2003). This infers a division of groups with contesting interests that are cooperating in a governmental function. In this thesis, the concept refers mainly to the constellation North- and South Sudan, but also internally in the respective states. The concept *power sharing relation* is operationalized in this study as a scale that measures a party's relative proportion of power compared to the counterpart. Power sharing relations can in a government be measured by the number of representatives the respective party possesses. However, in term of this study, the concept will also be used as in informal situations, like the relation between rebel groups in North Sudan in relation to the government. In such cases, the concept is measured by an assessment of relative military strength and influence in society.

Conflict: This concept has many connotations. According to the Oxford Dictionaries (2011a) *conflict* means "a serious disagreement or argument, typically a protracted one", whereas it can be used as a mass noun and thereby in this context mean "regional conflicts". The

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Uppsala Conflict Data Program (UCDP 2011) defines *armed conflict* as "a contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths". In this study these definition will not be sufficient alone; the concept of conflict connotes the disagreement, the violent acts but also the structural aspect. Galtung (1969) formulates a broader definition of *violence* in his article 'Violence, Peace, and Peace Research' where he discusses the concept of *peace.* Here he states that violence without a clear subject-object-relation can be defined as *structural violence* (Galtung 1969:171). One example of this can be a society where life expectancy is significantly higher amongst the upper class compared to the lower classes – although no concrete actor is committing direct violence, there is a societal structure that deprives one or more groups of certain advances. In order to operationalize the concept of *conflict* in this thesis, the broad connotation will be used, encompassing the disagreement, armed conflict as well as structural injustice that occur between the involved parts.

Sources of conflict: With regards to the definition of *conflict*, the *sources of conflict* can be operationalized as actions, incidents, societal structures or any other cause that lead to increase the level of conflict.

1.4 Methodological matters

This thesis aspire to cover a tremendously broad subject, with much literature, many aspects that is not going to be discussed, some consciously but some because of limited access to literature, or even lack of knowledge. By default, social research contains an aspect of uncertainty, in qualitative as well as quantitative studies. Therefore, it is important to acknowledge the limitations and be conscious of how this will affect the outcome. This section is dedicated to reflect on these matters.

1.4.1 Limitations and demarcation of the study

One of the greatest limitations of this study is the fact that the Comprehensive Peace Agreement culminated with the referendum January 2011. The short time span means that consequences have yet to unfold that might prove significant to the study. Within the first

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year of the peace agreement, there had been violent clashes between the North and the South in the border areas, as well as continued mediation by the international community. However, this limitation is a double edged sword; there is a positive aspect to working with contemporary occurrences in the sense that much insight can be gained from media and current debates. The limitation of time span does also relate backwards in time, as explained introductory. In order to create a concise study, a limited time frame has to be set. Thus this study will focus specifically on the CPA from 2005 to 2011. In order to create a context for the agreement, the thesis will also use lessons from the Addis Ababa Agreement that lasted from 1955 to 1972. Some important occurrences in the period shortly after the signing will also be used when relevant for the discussion.

Since this study draws its findings from already existing literature, this becomes an important aspect to the quality. First, with regards to the sources themselves; where possible the sources chosen are literature that is quoted often in academic books, articles and journals, this given a relative credibility. However, literature that exists on the subject is also limited because of the short time span to the events. The bulk of available literature focuses on topics and events that took place between the 1972 agreement and a few years after the signing of the CPA in 2005. More recent literature is scarcer, which makes it necessary to use reports from organizations and media in addition to cover most aspects. The theoretical framework for this thesis draws its literature from a more established foundation. Johan Galtung's definition of *structural violence* (Galtung 1969:171) and the theoretical framework of Complex Political Emergencies by Goohand and Hulme (1999:16), exemplified by Maxwell and Burns (2008). Theories of power sharing and secession are also based on a thorough foundation of literature. This literature spans from Western perspectives from Northern Ireland, Yugoslavia and Belgium in Noel (2005) and O'Flynn & Russel (2005), to the more specific approaches of Sisk (1996) that focus on power sharing in international mediation in ethnic conflicts. Plenty of literature on consociationalism focuses on Africa and conflict situations; Lemarchand (2006) discuss the consociationalist approaches in Rwanda, Burundi and the DRC.

One big concession that was necessary in order to limit the study was to not incorporate a comprehensive analysis of the conflict in Darfur. This conflict contains its own complex aspects that would not be covered adequately in this study. However, it would also be impossible to exclude this as well. The compromise is to draw experience and examples from the Darfur conflict in a case approach, but avoid any in-depth analysis of root causes.

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1.4.2 Research design

There are miscellaneous variations to how one can approach a research question. The most significant separation is the one of qualitative and quantitative. However, there are many ways to use different approaches and also combine these. The research design is the choice of how the groundwork is done in order to connect the question to the conclusion. This study focuses on the conflict in Sudan, whereas it is debatably one or two units of analysis, with regards to how one looks at it. As Galtung (1967:37) says: "the human mind usually sees some basis for generating sets of elements or units so that a unit only rarely is seen as completely unique".

Independent variables in the research questions are the secession and the CPA. In order to assess how they affect the dependent variables, respectively; the power sharing relation between North- and South Sudan; and the sources of conflict, Robert Yin (2003:9) suggest that a single case study is an adequate approach, based on that the situation is so large that any other approach would seem effortless.

1.4.3 Reliability and validity

Reliability measures to what extent the study will reach the same consistent results if tried again. If another person does the same study, that person shall ideally reach the same conclusion (May 2001:92). In social science, this is not always the case, mostly because the study subjects may change over time. As for this thesis, where focus on a conflict that has changed largely after the secession has a lot of potential flaws when it comes to reliability. Some of these problems are minimized by the approach selected in this study to view the conflict as a process that didn't end with the secession. However, it is most likely that it would prove difficult to repeat this study based on its premises. Effectively, a narrow case study like this should not serve as the basis for any generalizations.

Validity is a method of measuring the accuracy of what has been intended to study. To ensure this, the interpretive instruments, data quality and results have to be questioned. Galtung (1967:29) formulates the principle of validity as such: "Data shall be obtained of such a kind and in such a way that legitimate inferences can be made from the manifest level to the latent level". In comparison to qualitative studies, there are no mathematical formulas that need evaluation, but a thorough look through sources and the construction of research

question, operationalizing and theoretical framework. The potential this study has to lack validity is mainly based on its reliance on secondary sources. However the work when it comes to finding and selecting sources is an important part of the work to ensure validity.

1.5 Structure of the thesis

The thesis is divided into five chapters. First, this chapter has provided a description of the historical context that precedes the focus of the study. It is important to have a certain understanding of where the separation from Arabs and non-Arabs derive from and why it became so entrenched, as this is an important feature to the conflict and to this study. Further on, this chapter has stipulated the research question and the framework for interpreting this in line with the author. It is important to be concise when it comes to these formulations in order to make the thoughts behind the study accessible for the reader. With regards to the magnitude and history of the conflict to be studied, as well as the short span in time back to the referendum, there are a lot of limitations to how one can properly achieve any reliable information. These issues have been reflected on here, along with some thoughts on why the study can be significant.

Chapter two will focus on power sharing and secession, along with the theory and discussion that follows these constructions. What is interesting with regards to the Sudanese conflict is that there are so many layers of power sharing; the central government and the rest; the intricate system of tribes all over the country have own local power relations; Southern politics, whereas the power relations are very skewed in favor of the liberation movement SPLM. To further exemplify issues that are connected to power sharing in peace agreements, a case from the Arusha agreement in Rwanda will be drawn experience from, with a comparing to the situation in Darfur. With a discussion of power sharing as the foundation, it should be simpler for the reader to follow the argument in the last part of chapter three, when it comes to secession theory. The aim is to convey the complexity of secession, to counterweigh the general perception that a referendum, a loosely drawn border line and a currency changes the conflict at a fundamental level.

To facilitate the understanding of Sudanese society, the context for the structures that prevails today and the most important problems that has created conflict in the past, chapter three will consist of a short descriptive analysis of significant historic eras in Sudan up until

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the end of the first civil war. In order to support the argument in this thesis that conflict is dynamic and can prevail despite peace agreements and secession for many reasons, this chapter will draw upon theoretical framework of Johan Galtung's structural violence in combination with theories of Complex Political Emergencies in order to use both their holistic approach to matters of conflict. This enables a perspective of the conflict as a process where conflict and violence can exist without war, and it is as important to focus on divisions in the larger society than the immediate concerns of two warring parties . The aim of this approach is to continue this notion of conflict onward to the CPA, in order to learn from previous mistakes, but also to serve as the foundation for understanding the argument that will follow in chapter three, that secession has to be understood as a change in the same conflict and not necessarily the end of a war.

With this premise as the basis, chapter four will assess the Comprehensive Peace Agreement thoroughly. The chapter will follow the structure of the CPA, so that the discussion follows the agreements dynamics. The aim will be to answer research question 2a and 2b: if the CPA address the sources of conflict and subsequently what sources of conflict remain unresolved. An important focus when analyzing the CPA in this manner will be to utilize the experience drawn from the Addis Ababa Agreement and from secession theory. That way, it is possible to identify which challenges that can arise after a secession for both countries.

Conclusively, the aim of the thesis is to have contributed to a new understanding of the conflict in Sudan. Chapter five will provide a summary of the thesis based on the research questions and to what extent this study could answer them. It is also interesting to establish whether there are any aspects that proved to be difficult to answer through this study, or if the study raised any new questions that could be used for further studies.

1.6 Conclusion

Chapter one has provided a short historical- and the methodological premises for this study. The conflict in Sudan has proven to be truly complex and long-lasting. The aim of this thesis is to critically analyze the Comprehensive Peace Agreement in order to find its weaknesses and future challenges in the aftermath of the agreements implication. The study draws upon historical aspects of the conflict in order to understand root causes; secession

theory in order to understand the challenges that may arise from dividing a state, especially in such a complex state as Sudan when it comes to ethnicity, religion and sense of belonging; and an understanding of conflict as more than the static concepts of war and peace, but a dynamic that changes its state between those continuously.

In order to reach these conclusions, the study will use a descriptive analysis of already existing literature, whereas most of it is regarding the conflict between North- and South Sudan. This is not a comparative study, but experience is drawn from the history of conflict that lead to the CPA, in order to understand what the important challenges is. The only other external example is taken from the peace process in Rwanda, not to compare to Sudanese conflict, but to understand the critique from secession theory.

The following chapter will provide a descriptive analysis of the historical context of Sudan with an emphasis on some aspects that were important to understand how society is today; this including the Addis Ababa Agreement and its failure. The aim will be to create an understanding of the dynamic of the conflict from then to now and to introduce a way of perceiving the conflict as a complex situation which will be an important premise in order to understand the critique of the CPA that this study puts forward.

Chapter 2: A theoretical view on the referendum: Power sharing and secession

2.1 Introduction

According to the Machakos Protocol of 2002 Part B, article 2.5, an internationally monitored referendum is to be held at the end of a six year interim period. During this period, the Government of National Unity was to establish institutions and "make unity attractive" for the people of Sudan. The thought behind this was to preserve the country as a whole, but to change the power structure in order to take the conflict down to a political level. As explained earlier, Dr. Garang wished for a solution based on unity rather than secession. In order to achieve this, the interim government would have to establish a positive view on a central government that the South had been fighting against for many years, a difficult task at best. U.S. Ambassador Jendayi Frazer points out that the NCP are relying on "short-sighted tactical maneuver, coercion and intimidation rather than a strategic reorientation to persuade Southerners that they have a place in a unified Sudan" (Frazer 2011). As this might not have been the best approach in order to convey a notion of trust and positive prospects of unity, the referendum became an illustration of the immense consensus in the South for secession, despite Dr. Garang's initial wish for unity.

This section will provide a theoretical view on the two options. First the neglected option of unity through power sharing, followed by secession theory. In retrospect, it might appear moot to discuss the neglected options, but it is relevant. First of all, as an academic debate this will be important in solving future conflicts, also in Sudan regarding the Darfur region. The secession critics raise the concern that this secession might set a precedent for other countries that consist of Muslim and Christian populations; in the future it could undermine the African continental unity (Frazer 2011). Secondly, as explained earlier, the power structures might not change as much as anticipated only because of a more defined border, a new flag and another national anthem. South Sudan is still critically entangled with the North, politically and economically. A clear example of this regional political entanglement is the issue of oil and oil transportation. After the secession, the issue of oil pipeline fees almost drove the two countries back to conflict after a long period of fighting in the border states (Gettleman 2012). As the conflict can be regarded without country borders, the power structures and the rest of the political economy can supersede borders as well. The aim of this discussion is to highlight the advantages and pitfalls of each option, to show how it

ended up the way it did, and to attempt to explain how the new structures will change and might not change the dynamic of the conflict *per se*.

2.2 Theories on power sharing

Although each civil conflict is different and there is always a vast complexity to achieving peaceful solutions, the variations in end results can be roughly generalized in just a few scenarios. One scenario is a violent conflict where an undisputable winner emerges and gain hegemonic control over the whole area and institutional structure. This end result can last a long time, as with Sudan, and the cost of human lives can be immense. A second scenario is secession, where the warring parts agree on a common border, separating the power structures. After the formation of the United Nations, this is a rare happening. The largest example of this is the disentanglement of the Soviet Union. A third scenario is that the parties can agree on various versions of a power sharing agreement, taking the conflict down to a political level.

This third option, power sharing is broadly accepted as the best democratic mean when it comes to managing conflict in divided societies (O'Flynn & Russell 2005:1). However, according to René Lemarchand (2006:2), such agreements have shown unable to prevent the reemerging of violence in many different conflicts, like Angola, Liberia, Somalia and Ethiopia. Why is this option still enjoying such high regards? The answer may lie close to a comment by Anna Jarstad (2006:9): "power sharing is attractive to peace negotiators". A reason for this might be what Sisk (1996:77) describes as a principal assumption that permeates power-sharing theory; a belief that appropriate political engineering can succeed in constructing an operational political system that is capable of consolidate the parties that initiated the conflict and generate a platform where they can resolve the issues that caused the escalation of violence.

In situations where violence is intense and there is an immediate need to establish some sort of agreement, the political actors as well as peace negotiators are inclined to focus on what is most important at the time, to halt the use of violence. Although a cease fire is crucial in times like those, the institutional framework which emerge through a hasty process will most likely resonate with the claims of Jarstad and Sisk; a power sharing agreement that is reflecting the primary interests of the particular violent groups, as a key means of reducing

tension and halt the use of violence. In the aftermath, there will always appear unforeseen problems that were not discussed or agreed upon initially, but still can have major implications for the future of the political collaboration. In the case of the Addis Ababa Agreement, this issue can be illustrated by the fact that the parties agreed upon many important issues at the time, like the composition of the armed forces, amnesty and judicial arrangements and the political composition of the new regime (The agreement 1972). However, it did not provide a framework for how to solve land ownership issues and sharing of oil revenue that emerged shortly after, when oil was discovered in the border areas. This is a perfect example of unforeseen issues that may emerge and ruin the peace process. From a retrospective standpoint, one can see such obstacles, but for a negotiator or a politician it is difficult to pinpoint every possible issue that may arise in addition to create a consensus on theoretical situations. O'Flynn and Russel (2005:2) argue that in political institutions need to be established with enough flexibility within the system to make it more feasible to anticipate and respond to changing political imperatives. To establish a sustainable political regime through a rapid peace negotiating process is by default an immense challenge. There have to be many unforeseen variables, and in many cases, some groups will be overlooked in the process; most likely the weakest parts of the society. Arguably, the process of reaching a power-sharing agreement through external negotiations is not necessarily very democratic in its nature.

2.2.1 Power sharing and democracy

What is democracy? The etymology of the word shows that it derives from the Greek words *dēmos* and *kratia* which mean 'the people' and 'power rule' (Oxford dictionaries 2011b). In modern times, democracy has obtained many connotations, and there is no unanimous consensus on what constitutes a democracy. Diamond and Plattner (2006:90) argues that in order to become a democracy, a regime must meet two fundamental conditions; the regime must respect the distinction between the private and the public spheres; and it must "diffuse power" by separating control over the public sphere among various levels and centers of authority. By this, they mean that decision making should be reserved for the level closest to the citizen. So a democracy shall protect its people and make decisions that regard them accessible to them; but for many, democracy means more, liberal democracies will also be

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measured by its value system if there's equality amongst the citizens, freedom of speech and movement, inclusion, etc.

According to the Sterling Professor emeritus of political science at Yale University Robert Alan Dahl (1989:84), most of the arguments for democracy will in the end come back to the value of *intrinsic equality*. The interpretation of this value is that each individual in a society has independent moral standing and is thereby valuable in his or hers own right. Although every society has its flaws when it comes to taking care of every individual and their rights, the concept of intrinsic equality provides a good aim for measuring democracy; if many individuals rights are being offended, it is hard to justify democratic values. However, Dahl accepted that the upholding of this value was not sufficient, because it only entail that representatives for the individual provide equal consideration to each person's interest, but does not solve the question of who can judge what interest is best, and who can safeguard these interests in the best possible manner. To answer these questions, Dahl simply answered that each individual is the best judge of its own interests and the appropriate person to bring them out. He terms this a second fundamental value called the *assumption of personal autonomy*, and regards this as a justification to create a more robust democratic model (Dahl 1989:99).

With such a normative foundation, there is no state that can effectively live up to a status as democracy. However, it is possible to argue that with a legal framework that will treat everyone equal, a political system where everyone have to possibility to participate and be heard and a well-functioning local democracy, many of these values are appropriately upheld. Without discussing modern democratic standards any further, it should still be possible to assess what these democratic values mean in a peace process, and what the implications are when they are severely lacking.

2.2.2 Power sharing and consociationalism

In 1969, Arend Lijphart published an article called "Consociational Democracy", which laid the groundwork for a theory on power sharing that had a huge impact on how analysts thought about democratic governance (Lijphart 2008:3). Lemarchand (2006:3) describes consociationalism as a "notion of elite cooperation through a grand coalition cabinet, where executive power is shared by opposition and majority parties". Further on, the

most important part that captures the essence of this approach is three conditions: First, *group autonomy*, meaning that when issues of common interests are to be decided upon, all members of the coalition cabinet shall be a part of the process; on all other issues, the respective community or region in which the issue regards shall be free do decide autonomously. This condition does not only resembles Dahl's assumption of personal autonomy, but also an important principle in the European Union, the subsidiary principle, stated in Article 5 of the principles (EUT 2006:E46). This principle states that all that matters ought to be handled by the smallest, lowest or least centralized competent authority.

The second condition is that the standard of all political representation, financial redistribution and similar services should be based on *proportionality*. The aim of this condition is to ensure a fair representation for minorities. Further on, the last condition, and maybe the most controversial one is the *minority veto*. This gives minorities a position in government where they can bargain and use leverage that only the majority can in traditional power sharing constellations. Lijphart recommends that this tool should not be used too often, and only with regard to issues of fundamental importance, if to keep it valuable and pragmatic in governance (Lijphart 1990:495).

The main critique of consociationalism as a power sharing constellation is that it's undemocratic. At its worst, consociationalism excludes the opposition and cements the power structures with one group, the minorities; which is inherently undemocratic. Some critics claim that this kind of politics does not give any incentive to keep government honest, but rather give a large amount of power to small unserious actors (O'Leary 2005:6). In the next part of this chapter, one example from a peace agreement in Rwanda will illustrate one aspect that is problematic regarding small groups in larger conflicts. By identifying this problem, some light can be shed on the unresolved issues in Sudan regarding minorities and lack of access to the political system.

2.2.3 Case: The failure of the Arusha Agreement in Rwanda

This is not to be regarded as an analysis of the peace process in Rwanda, but a summary of some important events that lead to a breakdown of one peace agreement. As with most societies and conflicts, the situation is more complex than it is possible to confine to a

few pages. The aim of this part is to identify those aspects that can be useful in regards to theory and power sharing along with the peace process in Sudan.

In 1993, the government of Rwanda and the Rwandan Patriotic Front (RPF) signed a peace agreement that was going to put an end to the conflict between the two parties that had lasted for three years. The purpose of this agreement was to establish a transitional constitution and a transitional government based on a broad foundation (Arusha Accords 1993). According to the agreement, the power-sharing was supposed to divide the cabinet positions in the transitional government between six of the larger movements in the country, representing various fractions of the two large ethnic groups in the country, Hutu and Tutsi (Lemarchand 2006:4,5). This agreement was never implemented, because of the actions that followed it. Adelman and Suhrke (1996:5) reported of signs that the implementation of the agreement were faltering and that there were preparation of violence, shortly after the signing. Extremist rhetoric was on the radio, in public rallies and even occurred at official happenings. In general, violence became more frequent in the society. The UN Mission in Rwanda (UNAMIR) reported of military training of militias, hidden arms caches and plotting of violent actions.

Despite the fact that the UN was present with military forces in the country, and they had the mandate to provide support when implementing the peace agreement, they appeared helpless when the situation changed for the worse. No preparations were made to deal with the breakdown of the Arusha Accords, except to withdraw. When the violence escalated and the underfinanced UN administration in the area experienced casualties, the killing of 10 Belgian peacekeepers, the peacekeeping force was reduced drastically. The reason behind this was mostly external politics; the contributing countries lost their support for the operation at home (Adelman & Suhrke 1996:6).

In the aftermath of the atrocities that followed these events, many were blamed; the UN for lack of leadership and failure to intervene and protect civilians; the media which incorrectly covered the escalating violence in coherence with stereotypical notions of tribal violence and killing orgies, failing to convey the political power struggle and ethnically motivated executions (Adelman & Suhrke 1996:7). Mahmood Mamdani (2001:14) uses a historic context in his explanation, explaining how the Tutsi had a "privileged relationship to power" before the colonial occupation, when they were constructed as the 'alien' presence in the area. With this argument the process was long and tied to ethnic relations to both power

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and soil, whereas he argues that the killings were not ethnic cleansings, but a campaign to eliminate a foreign presence from the homeland.

Causality, root causes and triggering effects all play a part in the culmination of a conflict, and in this context it is interesting to compare structural elements when it comes to the peace agreement itself. Ian Spears (2010:110) describes the Arusha Accords as the perfect example of a failed power sharing. The argument behind this is one group called the *Convention pour la défense de la république* (CDR), a pro-Hutu movement refused to cooperate and thus was excluded from the negotiations and the agreement. With much tension between the ethnic groups and one armed extremist group with connection to the President Habyarimana excluded, the power structure was not proportional and there were no autonomy for groups or persons that would seem equal or fair on both sides.

Lemarchand (2006:5) puts forward an explanation based on the civil war in context in which the Accords were negotiated. During the peace talks, the participants constantly regrouped on the battlefield to gain relative advantages in order to use this as leverage over the negotiation table. This was a tactic of cynical realism where military strength was used actively as a political means. Lemarchand (2006:6) characterized these negotiations as "Reversing the Clausewitzian aphorism, the Arusha negotiations can best be though f as the continuation of civil war by other means". Such a negotiating climate was built on fear and anxieties on both sides, which made it very difficult to establish a feasible option of a power-sharing mechanism.

2.2.4 Power sharing in Sudan

There are many significant differences between the conflict in Rwanda and in Sudan. Without comparing the conflicts *per se*, but the problems relating to power sharing, it is possible to assess what aspects of the power constellation in Sudan have the potential of escalating into violence or in other ways lead to regression in the peace process. First of all, after the secession between North- and South Sudan, this constellation changed fundamentally and arguably into three distinct constellations which are interconnected; power sharing in the North contra the South as their own autonomous regions; and power sharing between the two states. This section will discuss the two new autonomous states and how the new power structure will affect them internally. After the secession, the problems facing the two states

are very different. North Sudan still has many unresolved issues with regards to ethnic diversity and autonomy, while South Sudan will need to establish a regime that encompass the whole country despite its diversity; it needs to establish sovereign monopoly of violence and security; it needs to establish a working relationship with the North.

2.2.5 Comparing Darfur and Rwanda

Between 2001 and 2003, a series of smaller conflicts exacerbated in the area of Darfur, which is a state located west in the Sudan. A local governance collapse laid the foundation for insecurity and frustration, which the provincial elite used to fuel an insurgency. The magnitude of this conflict increased rapidly, and provoked a response from the government in Khartoum. The reaction was overly proportional and violent; a massacre that lead to the loss of more than 70 000 civilian lives and millions of refugees (Straus 2005:123). In many ways, the conflict between the North and the South is interconnected with the one in Darfur; SPLM/A are supporting the Darfur rebels in their armed resistance against the Khartoum regime. The root causes in both conflicts are founded in the relationship with the central government. Alex De Waal (2007:1040) argues that "the basic pattern of grievances is shared by all the marginalized people: they were denied their share in political power and national wealth, and the government used divide-and-rule tactics to allow local militias to run amok and destroy their modest livelihoods". In the case of Darfur, the Khartoum regime provided military and financial support to the Janjaweed militia, a fraction of the Arab camel-herding tribes of the area; using them in proxy warfare against the rebels. De Waal rhetorically states that it is not difficult to understand why the war broke out, but rather why it didn't happen sooner.

By 8 April 2004, the immense humanitarian catastrophe came to a halt after the Ndjamena Humanitarian Ceasefire Agreement on the conflict in Darfur. This agreement allowed the AU to monitor the ceasefire together with a force that could provide protection for the monitors (Ndjameda Agreement 2004). The reality was that the African Mission in Sudan (AMIS) was an understaffed unit with a limited mandate, operating in a vast area. After a long period of international pressure, especially from the US and China, a joint UN-AU mission was constituted. This became operational in 2008 (De Waal 2007:1043). As the Professor in African History Rex Seán O'Fahey (2006) argues, the Khartoum government has the upper hand in Darfur, seeing that they have curbed the liberty of the AU, international

Non-Governmental Organizations (INGO) and the UNMIS. By doing this, they achieved their goal, to ensure least possible international involvement in Darfur.

The conflict in Rwanda and the one in Darfur are utterly different on many levels; there are no similar conflicts, as they are complex processes of various societies, time aspects and different people. However, when comparing the two cases, it is interesting to point out some of the factors that were highlighted as central to the outbreak of violence in Rwanda that can be found in the conflict in Darfur as well. This can help pinpointing some of the important issues to come in the Sudanese peace process post-CPA. Hagan and Rymond-Richmond (2008:880) compares the two conflicts in order to illustrate a broader global importance when it comes to changing ethno-political ideologies and state-level entrepreneurship in genocidal processes. How the state acts in these conflicts is very decisive for the development of the conflict; in Rwanda, Hutu- and Tutsi people often intermarried and was in many instances impossible to tell apart, the argument is that it was the government in Rwanda that ran negatively connoted propaganda campaigns to enforce these divisions, whereas one good example of this is the forced use of identity cards that would state what ethnicity the holder belonged to. Centrally construed ethnic divisions are still prevailing in Sudan; although there's a long history of racial division in many parts of this country, there is also a history of coexistence. Even as late as the 1970s there were normal periods where Darfur was regarded as an area where Africans and Arabs lived as equals (Flint & De Waal 2005:3). The conflictual development started to escalate along with the central governments *ta'rib* policy, and culminated with the war that happened at the brink of the millennium. It is difficult to provide any explanation to this conflict that doesn't involve the regime in Khartoum as an important instigator.

Another factor that made the peace process in Rwanda difficult was the exclusion of some groups, whereas one was the armed militia group CDR that has been labeled as an extremist Hutu movement, as mentioned earlier. The situation in Darfur does also have an element of armed militia, in fact on both sides of the conflict. The Janjaweed militia was one of the more contentious issues when negotiating peace in Darfur. The AU and the international actors was that the Janjaweed needed to be disarmed. According to De Waal (2007:1050), the task of forcefully disarm any militia would be impossible, even for the government in Sudan. For UNAMID, instead of attempting to carry out a disarmament campaign on militias in Darfur, they chose to rather keep good relations with the more important tribal and militia leaders. This was perceived as the best option, to avoid

confrontation between Arab militia and the UN peace keeping force. In essence, Darfur became an area loaded with weapons, divided by ethnic tensions and confined by an underfunded peace keeping force with limited mandate; much like Rwanda 1993.

2.3 Theories on secession

For six years people in Southern Sudan could argue, debate and contemplate whether they wanted to be a part of the Sudan as before, or if they wanted to constitute a new state. As was the wish of former leader of the SPLM, John Garang de Mabior, the option of a united Sudan was something that the regime in the North would have to work towards; to prove that it would be beneficial for the Southerners. At the end of the interim period, little had been done to charm the people of the south; even much of the implementation of the CPA had been postponed. To turn the will of a people which have been mortal enemies for decades, proved impossible, and in 2011 the secession was a fact; a new country was born.

Secession in Sudan followed a group of nations that gained their independence through seceding from their mother countries. In Africa, the best example of a country born from seceding is Eritrea, which through great human costs managed to successfully break away from Ethiopia (Amaku 2011). But as an idea, secession has been around as long as it has been states. As some groups or even regions within a state do not feel that they can accept the ties to their government as they are, some attempts at secession will probably always find place as long as there are states, some more serious than others. Although the concept of secession is fairly easy to grasp; one unit want to separate itself from the state, the question of morality and the attitude from the international community is not that easily resolved. Kreptul (2003:46) questions on what grounds it is okay for a group to justify secession. One argument that follows is that a group of citizens can only secede rightfully if it has suffered certain injustices, for which secession is the appropriate remedy of last resort. These normative theories on secession are called Remedial right only theories, and are based on John Locke's theory where people only have the right to overthrow their government if their fundamental rights are violated. But is it morally wrong to secede from a state that is perfectly just? Some theories assert that groups can have the right to secede even in the absence of injustice; these are called Primary right theories (Buchanan 1997:31). Robert McGee (1994:18) argues that one can find one of the strongest arguments in favor of secession in the US Declaration of Independence: "whenever any form of government becomes destructive of these ends, it is the

right of the people to alter or to abolish it, and to institute a new government". However the rights or ethical discussion over secession goes, effectively it often comes down to realist issues of power relations or at least capacity issues. This section of Chapter three will discuss the theory on secession and how it applies to the case of South Sudan.

2.3.1 Understanding secession

To cover the most basic understanding of secession, it is defined in this paper in accordance with Pavković and Radan's definition: "Secession is the creation of a new state by the withdrawal of a territory and its population where that territory was previously part of an existing state" (Pavković & Radan 2007:5). Of course, the territory is not withdrawn in a literal sense, but the act of secession means that the institutions of the host country will lose jurisdiction over the seceded state. It is the political, legal and coercive powers of the host state that in effect is withdrawn from the seceded territory (Pavković & Radan 2007:8). In order to successfully secede, the new state needs new features and new institutions; new name, restructuring of former government structures to facilitate a new government, new border demarcation and in the case of South Sudan a new currency as well.

Although the technical aspects of a secession can be challenging for a new state, as also is one of the main critiques of South Sudan, the lack of capacity, this chapter is going to focus on the theoretical aspects of secession, the attitudes in the international community towards secession, and explain how the seceded country still can be as dependent on the host country after a secession. But first, how does a group go about to secede? First the group need acceptance from the host country; if there is no resistance and the people of the new state manage to create a functioning state, there is little to stop it; however in most cases the host country does not want to accept secession, thus creating a conflict of interests. Pavković and Radan (2007:1) explain that the world has witnessed conflict and violence with a secessionist agenda, but it rarely is portrayed like this in the media. In many instances, the struggle for secession is rather portrayed as a struggle for 'independence'. One reason for this may be that secession is regarded as a word with negative connotations to it. This might have to with the established notion in international law that breach of territorial integrity is prohibited

2.3.2 Secession in International Law

The Montevideo Convention of 1933 codified the declarative theory of statehood as the accepted part of customary international law, meaning that there was an established consensus within the international community that the declaration made at this convention should be the applicable law on this area. Article 1 in the declaration stipulates that "the state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states" (Montevideo convention 1933). However, the reality is not always this simple, in international law, there are no consensus to how secession should be dealt with. Brilmayer (1991:177) forwards the paradox of available international law which is applicable to the subject: the principle of self-determination of people within international law suggests that every person has the right to its own nation-state; whereas another equally venerable principle upholds territorial integrity of existing states.

Secession conflicts with the principle of sovereignty, which was one of the founding principles of the UN, and can to some extent be regarded as an important reason to the relative peace in the world after the Second World War. In the Charter of the United Nations, Article two states that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state..." (UN Charter 1945). When a group attempts to secede from a state, by default they deny the host state territorial integrity. If accepted by the international community, this can participate in weakening the principle of sovereignty, which can be regarded as a problem by itself (Bodley 1998:417). Through various processes, secessions do happen. In international law, there are two main schools of thought when it comes to recognizing a new state. The declaratory theory contributes all power to the seceding country; if a state can meet the requirements of statehood as they are stipulated in the Montevideo convention, the recognition from other states are merely a formal statement of facts. On the other side, the constitutive theory the only way to achieve statehood is to be recognized by other states. For South Sudan, the international community recognized the state, which ensures the states relation to others; specifically important was the recognition from the US and the Obama administration (Spetalnick 2011).

2.3.3 Measuring harms and benefits of potential secession

Another paradox that secession theory encounters is the democratic aspect; the political theorist Harry Beran forwarded the democratic theory which argues that the only valid procedure through which secession can become permissible is through majority decision-making procedure (Pavković & Radan 2007:202). Beran asks if a liberal democracy should include the right to secede; if it is morally legitimate for a minority that doesn't acknowledge the unity of the state to withdraw. In some cases, he argues, secession should be prohibited; if the secessionist group is too small to assume the basic responsibilities of an independent state; if the occupied area is culturally, economically or military essential to the existing state; or if the secessionist group seeks to exploit sub-groups within itself and is not prepared to let other groups secede (Beran in McGee 1994:12). Many observers referred to South Sudan as a 'pre-failed' state, on the basis of the government's lack of ability to enforce basic functions in the time after the referendum (Foreign Policy 2012).

When applying Beran's theory to the case of South Sudan, some concerns should be raised. One is the capacity of the new state; this was a major problem which led to discontent from many groups after the 1972 peace agreement, as discussed in the previous chapter. Omeje (2010:29) showed in a study the prospects of the state of South Sudan to become a fragile rentier state, raising the concern that a major problem would be to strategically transform the "potentially dysfunctional rentier base of its economy, marked by over-dependence on oil resources". Another report made by the United States Institute of Peace (USIP) shows that regarding the nation building project, South Sudanese people are mostly worried about exclusion from the national platform, especially along ethnic lines (USIP 2011:1). Both these reports point to plausible concerns that Beran assert in his democratic theory as reasons why it might not be morally legitimate to secede. For instance, a humanitarian catastrophe or new civil war internally in South Sudan could destabilize not only the country itself, but leave the North in a majorly advanced position when it comes to power relations. Collier and Hoeffler (2002) conducted a quantitative study to assess the discourse of secessionist movements from a Political Economy perspective. They found that secession in low-income countries carried the largest potential of danger. In addition to this, the most dangerous countries when looking at social compositions are those in which the largest ethnic group is in a majority, but with a significant minority present, much like Sudan. "Our results suggest that a reduction in ethnic and religious fractionalization is likely to increase the danger of civil war rather than diminish it" (Collier & Hoeffler (2002:26). One

example to illustrate this when Slovenia and Croatia seceded from Yugoslavia, then the Serb ethnicity became so massively dominant in the remaining territory, which may have contributed to the violence and atrocities in Bosnia and Kosovo in the aftermath. As argued in the previous section, there is a potential that Darfur can develop in such a detrimental fashion in the post-CPA era.

McGee criticizes these attempts to prohibit secession on moral grounds. When it comes to the argument to prohibit secession on the grounds of cultural, economic or military strategy reasoning is problematic because culture belongs to the people (McGee 1994:14). To further build on McGee's critique, one can apply Dahl's principle of personal autonomy, which infers that democracy is stronger the closer to the people from the state it is. This logic applies to the conflict in Sudan where an important source of conflict is the cultural aspect, the South fights to preserve its cultural heritage.

It is evident that the problem of measuring harms and benefits of secession complicates the debate of legitimacy within international law. Pavković and Radan (2007:209) asks "If there is no general agreement how to measure harms and benefits resulting from secessions, how could one use the criteria of harm and benefit for the purposes of regulating international recognition of secessions?" Although South Sudan receive international recognition, mostly because of remedial reasons concerning the long civil war and the difficult relations to the Khartoum regime, there are also arguments why a secession may prove to create new conflicts in addition to continue the former. The next part of this chapter will assess some important challenges that the regime and people of South Sudan have to meet.

2.3.4 Security issues in South Sudan after the secession

The years preceding the referendum in South Sudan were difficult. Local violence rose to a level that surpassed Darfur in terms of killings during 2009. This has proven to be a major source of insecurity for the people in South Sudan. After the end of the interim period and the establishment of the new state, the question if this level of violence will continue will be tremendously important. Will South Sudan fall into a new civil conflict, and how will that affect the highly tense relationship with the North? Rolandsen (2010:2) points to an institutional problem regarding the increased violence; when a lack of confidence in the

state's capacity to protect its own population and to prosecute perpetrators it can lead to lawlessness and vigilantism. When there are many groups and people in the country with military capability, this lowers the threshold for violence in the society and increase the effect significantly. In a worst case scenario, a new violent conflict could emerge from this.

One of the most important functions of a state is to create security for its citizens by securing a monopoly on the use of violence. In order to enforce this, the primary institution is the police. In South Sudan, police is mostly consisting of former SPLA soldiers that lack training in civil police work and basic education. Problems are many; there is not enough manpower to sufficiently cover the areas they are supposed to secure; lack of transportation and communication resources hinders effective response to security issues; lack of command and control. In some cases, the police are also victims of attacks. In 2008, a clan attacked a police station in order to kill a perpetrator that had been arrested previously; they achieved this by setting fire to his cell (HRW 2009:21). Besides the fact that the police force is unable to maintain a monopoly of violence, there are also reports of police brutality. According to Human Rights Watch, the police in Malakal fired into a crowd when a group of traditional dancers were arguing over which group was going to take the lead in the celebration. The incident caused two ethnic groups to commence fighting in a nearby village, whereas eleven people were killed and houses were burned down (HRW 2009:21).

As argued, much of this violence can be contributed to the amount of weapons and military equipment that's scattered around with local tribes and gangs. However, Schomerus (2008:23) accentuates another aspect that relates especially to the SPLA soldiers. The post-CPA period can be perceived from their angle as difficult; an uncertain and unstructured time where they may be required to participate in disarmament, demobilization and reintegration (DDR), but without any real prospects of a future as civilians. It is important to emphasize that the conflict in Sudan has lasted so long that many of these people only know how to be soldiers; the peace process takes this away from them and provide an unpredictable future. The director of the Community Security and Arms Control Bureau (CSAC), Dr Riak Gok, communicated a certain problem with getting former SPLA soldiers to perform tasks that they weren't used to from before, and that they tend to turn back to the use of force when they are provoked (Schomerus 2008:23). An interesting remark is that the GoSS wanted to use a civilian disarmament program in order to "defuse an increasingly precarious security environment (O'Brien 2009:18), which is what was considered too much of a risk in Darfur by the UNAMID.

By drawing the link back to the case from Rwanda, the violence in South Sudan after the CPA is not as politically motivated. Cases of violence is often, as showed here local or connected with local feuds and not attempts to overthrow the government or seize power. The difference is that the political in South Sudan is weak. Outside of Juba, there are only a few substantial movements, these are found close to the state capitals, and do not have the capacity to create any country wide campaigns (ICG 2011:16). Such is the situation in South Sudan a lot better than both Darfur and Rwanda; however the problem of local militia is still precarious. Human Rights Watch (2009:17) reports of various armed criminal groups and renegade soldiers which are committing abuses against civilians. One of these groups is the 'Forgotten Warriors', which attacked civilians in the Upper Nile, raping and looting. Such groups are growing in numbers as the peace process move forward. This trend is a predicament for the new government; do they choose to disarm these militias, which is the cause of the problem? Or do they choose to keep the level of arms high in the area, with regards to the conflict with the North? Maybe disarmament of larger parts of the SPLA could leave South Sudan weak in a potential escalation in the conflict with Khartoum in the future.

2.4 Conclusion

Through this chapter, this study has identified power structures at many levels in the conflict. In conflict resolution, the parts often come to terms with a power sharing structure, some more complex than others, in order to continue a peace process. However, many peace processes fail to maintain these power structures for a long time, as it were with the relative short peace after the Addis Ababa Agreement. One aspect that is problematic regarding this topic is the top-down approach; power sharing should be intricately linked to democracy. By using Dahl's approach to democracy, the study illustrated the span that exists between a peace process amongst two elite parties and external negotiators and the actual people.

One approach to power sharing that has been most important when it comes to such negotiations is consociationalism, where the power sharing is modified to facilitate the minority perspective by creating a power sharing constellation where minorities are represented and have real negotiating power through a veto mechanism or such.

The case of the Arusha Agreement in Rwanda showed first and foremost that these processes are not failsafe; there are many considerations and unforeseen consequences. By

identifying some of the problems with regards to the power sharing arrangements in this situation, these lessons could be applied to the Sudanese conflict. When looking at Darfur, some striking similarities raise caution, especially the fact that both was centrally construed dual ethnic conflicts and that armed extremist militia fuelled by the perception of ethnic incompatibility were excluded from the peace agreement. Darfur and the other areas with non-Arab groups in North Sudan remain a contentious focus point throughout this thesis; also when it comes to the secession. According to Collier and Hoeffler (2002) the quantitative data suggest that secession could increase the danger of a conflict rather than diminish it, because the majority in the host country becomes so dominant in the relationship to the minority.

An analysis of secession theory gave an ambiguous result. Some theories suggest a positive outlook for the seceded country, based on recognition from the international community and the fulfillment of the Montevideo Convention criterions. However, there are moral backsides of secession with regards to majority democratic standards as well as capacity issues. Especially the former is important for South Sudan; there are many challenges that hinder a successful development of a new sustainable state. These will be further explored in the following chapters.

Chapter 3: Making peace happen – The process that led to the Comprehensive Peace Agreement

3.1 Introduction

A historic moment for South Sudan was marked in January 2011, as the people registered as South Sudanese showed up to the voting ballots in order to decide the future of their own region. Whether to stay united with northern Sudan and continue the difficult cooperation that the Comprehensive Peace Agreement (CPA) established, or to secede as an own nation state with all the various advantages and challenges that this could imply. This referendum was the culmination of a six year long process initiated by the National Congress Party (NCP) and the Sudanese People's Liberation Movement/Army (SPLM) which started in 2005.

The following chapter will outline the peace process in Sudan. Since the independence from the British Colonial rule, Sudan has been fighting internally almost consecutively, with two attempts on creating peace through an agreement; the Addis Ababa-Agreement of 1972; and the Comprehensive Peace Agreement of 2005. In order to fully understand the contemporary challenges when working towards a peaceful transition, it is important to reflect on previous attempts towards a lasting peace agreement, why it wasn't successful and to focus on what can be learned from this. The start of this chapter will look into the first civil war in Sudan, which led to the Addis Ababa-Agreement of 1972.

With an overview of this agreement and its context, the next part will discuss the main shortcomings of this agreement and why there was a new outbreak of fighting between North- and South Sudan. Thereafter, the focus of the chapter will be shifted towards the Comprehensive Peace Agreement, starting with an outline of the process and what the different effects and implications were supposed to be, with the aim of explaining why it ended up as a power sharing agreement.

Using experiences from the past agreements in a new context, following chapters will have a foundation for a critical assessment of the CPA and the implications that derived from it. It is of utmost importance to recognize that even though the agreements can be similar and they derive from the same process, the situation on many levels have changed. Oil has become a more important issue; the political situation has changed, especially on the global

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level with the ICC court's decision to issue an arrest warrant on Sudan's President Omar al-Bashir, together with increased focus on intervention. The regional situation has changed dramatically after many revolutions and riots in various North-African countries, destabilizing the region. These are just some of many changes that will have to be taken into account when looking into the future of Sudan's peace process.

3.2 A history of occupation, violence and segregation

Officially, Sudan has never been colonized by any European power, which makes the large country unique as an African state (Rogier 2005:6). However a post-colonialism analysis is integral in order to understand modern Sudanese history, seeing that Sudan was under the joint control of Egypt and Britain through the Anglo-Egyptian Condominium between 1899 and 1956. In earlier history, the large area which is now known as Sudan has been shaped by many eras and over many years. As early as 2700 BC, it is recorded relations between Sudan and Egypt, which illustrates the greatness and long span of the history (Metz 1992:3). The first recorded peace treaty in this area stems from the middle of the seventh century, when the *baqt* treaty was signed between the Christian state of Makuria and the Muslim state of Egypt, this peace lasted for almost seven hundred years (Shinnie 1978:566). The segregation between Muslims and non-Muslims was apparent and actually dominant even in this era.

With this in mind, and moving on to contemporary Sudan, a good starting point for drawing lines to modern history can be in 1821 when the Ottoman Egyptian Empire, later with the help of British military, expanded their borders to include much of northern Sudan, the Nile valley, Blue Nile and Kordofan (Rogier 2005:7). At this time the North-South division started to become more entrenched. Later, this segregation was reinforced again by the Mahdist state, a regime which was initiated by an internal revolt in Khartoum by Muhammad Ahmad ibn Abd Allah in 1885. During these times, non-Muslims were regarded as second class citizens under the code of *dhimma* in Sudan, even though, Sudan attracted many Egyptians from the Copt church that faced prosecution in their homeland (UNHCR 2008). Occupation and division became a significant part of Sudanese history again.

War and occupation can have many deteriorating effects on people and on a country. The most apparent one in the time span between contemporary Sudan and back to the Anglo-

Egyptian occupation is exactly the entrenchment of separation between Muslims and the others, which often was Christian or of other faiths. This division became projected in the demography, where the majority of Muslims reside in the north, and the south only consist of a Muslim minority. The reason why the separation was kept, but the country not divided was because it was more practical for the occupying power to administer them separately. On the other side, Egypt wanted to maintain Sudan as a country, hoping to annex the entire area under Egyptian rule. With this in mind, was control over the Suez Canal given to the United Kingdom (UK) as long as they promised not to separate Sudan (Rogier 2005).

As mentioned, post-colonial thoughts have to play a part in an analysis of contemporary Sudan. When negotiating over Sudanese independence, the British administration didn't negotiate with any representative selection of the country. Given the lack of political organization in the South, the negotiations were only conducted with the Arab national movement in the North, which gave Sudan the immediate status as an 'Arab' state, and subsequently caused a power transfer to the people that were recognized within this ethnic group (Rogier 2005:9). Ironically, the British occupation left the country with the perceived Arab ethnicities with the power, at the expense of the people of Christian faith.

3.3 Divisions in Sudanese identity

The Sudanese identity can be described as dichotomous if not looking closely. Muslims are living in the North and people with Christian and tradition beliefs in the South. However, this narrative is simplified at best. Rogier (2005:6) states that the division in Sudan's population is cultural-linguistic rather than racial; he further claims that because of racial mixing throughout history the country is "one of the most diverse of the African continent". Paglia (2007:13) classifies nine major ethnic groups in the country, whereas all of them have to be divided into smaller subgroups. Within her classification, the Arab population accounted for 55 percent as the largest ethnic group, followed by the Dinka ethnic group consisting of eight percent, Nuba with 6 percent and Nuer with four percent. Statistics often tend to hide certain complexities; in this case the groups tend to be overly generalized. Arabs are not one heterogeneous group, and neither is Dinka, where there are at least 25 ethnic subdivisions. Paglia (2007:15) explains that the ethnical complexity of Sudan is not the reason for conflict. There is nothing inherent in ethnic identities that are conflictual, and people have lived in peace before, despite the diversity in culture, religion or appearance. The

core of the problem is rather politically, where the way to power comes through using differences, status and inequality to gain support.

The process of Arabization, which is called *Ta'rib* has been working at many levels the past hundred years in Sudan (Sharkey 2008:22). The argument that Paglia proposed fits very well when looking at how this process words. At the grassroots, this process has worked well and without much tension. Arabic is accepted as an important lingua franca in growing areas and the culture has spread throughout the country. When looking at the political level, the policy of Ta'rib has evoked resentment and violence. Sharkey (ibid) argues that the post-colonial policy of Arabization has to be blamed for the divisions in society that followed. Sudan lost its national identity. People that didn't identify with Arab culture lost their emotional attachment to the central state, thus creating a genuine wish for an alternative, which drove the people of South Sudan to fight against the Northern regime.

During the transition phase when the British administration left, the North gained more and more political power from the retreating British powers. Administrative positions in the South were taken by Arabs from the North. Historically, the South and the people associated with it have been oppressed by the North before. They are often treated as worthless people, subjected to slavery and violent attacks. As this fear increased in the southern Sudanese populations, a group of people from the South initiated a mutiny in August 1955, which is regarded as the time when the first civil war started, even before the independence was granted. These people fled into the bushes and regrouped in Uganda. They would later emerge as a group called *AnyaNya*, the predecessor to the SPLM movement (Rogier 2005:10).

3.4 Independent country, internal matters

Sudan gained its independence 1 January 1956. The British government was hasty and did not want anything to do with what seemed to be rebellion in the South. Although the British administration always separated between north and south, they granted independence to the country as a whole with a temporary constitution that did not include any section regarding secularity or whether the nature of the state should be federal or unified (Johnson 2003:9). After the transition of power, Arab nationalism spread throughout Sudan. The new regime started to implement policies according to an Islamic Arab state, which were to be

controlled through a centralized government in Khartoum. In 1958, General Ibrahim Abboud took power, and enforced a strong regime and increased the pressure on the South to join Islam and the Arab culture. For instance, education was changed from Christian in English to Muslim in Arabic (Abulemoi 2011:37).

An interesting remark when it comes to the international community regarding this conflict was the principle of *state sovereignty*. At this point in time, the principle that the international community could not intervene in a state's internal matters were held high. Some years earlier, the United Nations (UN) was founded on this notion. In the UN Charter, article two, it is clearly stated that: "All Members shall refrain in their international relations from threat or use of force against the territorial integrity or political independence of any state…" (UN Charter 1945). Since Sudan was left as one state, the UN as well as the Organization of African Unity (OAU) regarded the conflict as internal affairs of a member state, which would make an intervention illegitimate within international law at the time (Juma 2003:185).

3.5 The Round Table Conference of 1965

More southerners started to join forces together with the former mutineers, and formed a political front called Sudan African Nationalist Union (SANU), where the military branch was the AnyaNya (Rogier 2005:11). Civil war broke out in full scale, which resulted in General Abboud's abdication, which was replaced with a civilian government and the initiative to the Round Table Conference of 1965 which was supposed to resolve the dispute (Abulemoi 2011:37).

The conference consisted of different parties from each side with various views on whether it was feasible or necessary to divide the country and on issues of federalized rule. Northern politicians wanted nothing more than to give away a limited amount of regional autonomy, while most Southerners wished for independence or some sort of federal government (Abulemoi 1011:38). Diverging interests, combined with a serious lack of trust between the parties resulted in a breakdown in talks. The North held elections, where the South was excluded in the voting. The Round Table Conference highlighted the distrust and differences between the two parts and fuelled the conflict until the end of the decade.

3.6 The Addis Ababa-agreement, an end to Sudan's first civil war

A new leader took power over Sudan in January 1970. His name was Colonel Jaafar Nimeiry, and he conducted a new type of relationship with the South. First, he managed to broker deals with neighboring Ethiopia and Uganda, where they would seize to support each other's rebel movement. Thereafter, he appointed a new Minister for Southern Affairs, Abel Alier, which would enjoy respect and trust from both sides in the conflict. This move would immediately ease the relationship between the two parts (Rogier 2005:13). Alier arranged secret meetings with southern leaders in exile, which proved to be fruitful and led to the 1972 peace agreement between the Southern Sudan Liberation Movement (SSLM) and the Government of Sudan (GOS), also called the Addis Ababa Agreement (AAA), in this text also referred to as "the agreement".

Even though most southerners were fighting for the cause of independence, the agreement culminated in the creation of a semi-autonomous southern region with its own parliament and High Executive Council (HEC). Alier took the responsibility of leading the first regional government. The region would also experience an economic upturn, as the agreement allowed for local taxation in order to raise revenue, in addition to support from the central government. However, these money did not lead to much more autonomy for the Southerners, since the regional government was not permitted to decide upon own economic planning or social development (Johnson 2003:40). For the military, the agreement constituted a new national force called the 'Southern Command', whereas half the force was to be from the rebel movements in the region, and the other half from outside of the region, namely the government forces from the North. The aim was that the rebel armies would merge with northern armies, integrating them into one unit, causing the rebel army AnyaNya to lose its self-defense capacity (Rogier 2005: 14).

In the South the agreement didn't bring security or much improvement politically, local representation was still very low amongst the important positions. Since the 1950s, the lack of local representation in the political system had been a central conflict in the South. Now that some administrative positions became available, the competition for these became fierce, seeing that it was the only job alternative for many people. The combination of such high demand for jobs and just a few available positions became problematic. The Provincial Government in 1972 was probably not only the smallest, but also the least educated administration in the world at the time; they had one employee per 11,227 persons and most

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of these had been refugees or rebel fighters. For instance, the agricultural department had 14 university graduates (Tvedt 1994:72). Insecurity and dissatisfaction grew as the rebel army became pacified within the Southern Command. Some AnyaNya fighters denounced the agreement, left the Southern Command and regrouped in the borderlands of Ethiopia where they continued their struggle (Abulemoi 2011:41).

This agreement didn't only spur concerns amongst the southern people, but other regions as well. Both Darfur and Kordofan wanted the same rights as the South. With that reasoning, groups from these areas attempted a *coup d'état* in 1975, but Nimeiry managed to prevail from the attack (Abulemoi 2011:41). From a northern point of view, the peace process was a failure; there were no other political entities that supported it except for Nimeiry. It actually weakened him to the point that he became isolated politically, and gained many enemies amongst the sectarian and Muslim fundamentalist parties. Nimeiry had to attempt a national reconciliation policy, in order to reconnect with the opposition parties. He invited exiled politicians, let some out from jail and appointed them in important positions in the army. This act secured Nimeiry in the government for a while, but it also marked the start of his downfall, when he let previous enemies close to the state institutions (Rogier 2005:15).

Along with the political descent of Nimeiry and the increase of radical Islam in government, the peace agreement was crumbling. In 1983, this latent discontent emerged into conflict when a battalion in the South started a mutiny after being ordered to the North. Two more battalions joined them, together with various rebel groups that had been fighting from the Ethiopian borders (Abulemoi 2011:41). The second civil war had started.

3.6.1 Why did the Addis Ababa Agreement fail?

The breakdown of the Addis Ababa Agreement is not contributed to one factor alone. The processes that lead back to the fighting have many layers. This chapter aims to highlight some of these important factors that did lead the fighting to reemerge, thus undermining the agreement. Assessing the breakdown of this agreement can be helpful when looking forward to the Comprehensive Peace Agreement, to pinpoint its shortcomings and strengths that may decide the future of the peace process. The Addis Ababa agreement was based on a compromise from both sides with a minimal and controllable share of autonomy given to the South. The CPA went further when it comes to autonomy; although this thesis will argue that

the deep rooted causes of the conflict may not disappear, between the North and the South, but also internally within the two parties.

It is important to remember that peace is not accomplished by an agreement in itself. The process of reconciliation amongst the society and its people, the leaders, amongst victims and offenders will always take time and it is not necessarily linear either, meaning that sometimes fights or other setbacks can reoccur. Structures in and between societies, and even culture can be decisive for the transition towards peace. In order to see the two peace agreements as two individual parts to one history, the conflict will be regarded within the framework of *Complex Political Emergencies*, whereas the definition of peace will be drawn from Johan Galtungs work.

The concept of *peace* is fundamental when looking at peace agreements. Connotations to the word will vary greatly depending on who is using it and in what context. The word is difficult to define; it can seem like a light in the end of a tunnel, or a final goal. It is used much and there is seldom any coherence in what the concept actually means. In 1969, Johan Galtung attempted to break down this concept, in order for it to be of analytical interest (Galtung 1969:167). His work contributed to making peace more useful as an analytical tool, by creating a continuum between *violence* and *peace*, with different degrees and modes in between. First, he makes a distinction between *personal violence* and *structural violence*. The first can be understood as an "actual somatic realization" (Galtung 1969:174), which has to do with the body and different interactions in that regard; from the act of hitting someone in the face to using nuclear weapons. Such acts can again be distinguished from each other, in sub-categories, for example if it is physical or psychological, intended or not intended. This type of violence is easier to perceive and be critical against, since there often is a clear victim and a perpetrator. The concept of *structural violence* can be more difficult to pinpoint, Galtung himself describes this as inequality in the distribution of power (Galtung 1969:175). Such inequalities can persist also after a peace agreement, keeping a different form of violence when the personal violence has stopped. The purpose of using Galtung's definition on peace in this thesis is to look at the structures in society which the agreements did not change. As explained in this chapter, the agreement put an end to the fighting, but left a lot of the same problems unresolved.

3.6.2 Never a simple solution – Complex Political Emergencies

Galtung's way of analyzing peace was one contribution to a more eclectic approach to research around the subject. Civil society, culture, institutions, socioeconomic factors and other aspects that don't revolve around the actual warring actors should be seen as integral parts of a peace process. Goodhand & Hulme (1999:16) use the term *Complex Political Emergency* (CPE) in order to acquire a broader understanding of a certain type of conflict. These kinds of conflicts can be recognized by the following features; emphasized with italic at the start of the next six sections:

Conflict within and across state boundaries. Although the conflict between North- and South Sudan may appear to be a conventional civil war in the sense that there are two major actors with respective areas they control inside the country, the conflict has to be regarded as more complicated. The first reason for this is the ethnic composition of the country. As shown in appendix A, the southern part of Sudan is divided amongst many ethnic groups, including people of Arab descent or in other way associates themselves with the Arabic cultural heritage. There are many different tribes and beliefs spread out over the vast landscapes of Sudan, whereas some of these people are nomads wandering the land without any sense of administrative borderlines. In February 2010, the Misserya nomads entered the Unity region in the South which caused a clash with the South Sudanese army, killing 18 people. Although nomads have roamed these lands for many years, when moving over tense borderlines they can become a part of a larger conflict. Kuol Diuem Kuol, the spokesman from the Southern Sudanese army regarding this clash stated that "Our theory is that this will escalate and will be a big problem", pointing out the potential threat such clashes mean for the peace process (Wheeler 2010). A second reason for this argument is that the conflict is not isolated within the borders of Sudan. Influence and cooperation over borders play an integral role for both parties. While earlier in this paper, the close ties between AnyaNya and neighboring countries like Uganda and Ethiopia, there are more actors involved in this conflict, making it highly interconnected with other actors, states and conflicts in the region. The International Crisis Group (ICG 2010:1) claims that many of Sudan's nine neighbors were "directly involved in, or affected by, it's civil wars". While Kenya, Uganda and Ethiopia have been important supporters of the SPLA, Egypt has worked towards a unified Sudan, with the notion that the south is too fragile for independence. While action and diplomacy often are directed towards Sudan, the connections go both ways; in the 1960s President Nimeiry supported the Eritrean and Tigrayan fighters against Ethiopian government (ICG 2010:16). More recently, the

Lord's Resistance Army (LRA) has entered South Sudan with unclear motives, plundering food from villages and burning houses, which is yet one more layer to the regional aspects and interconnectedness of this conflict.

Political origins. When it comes to origins of Complex Political Emergencies, Goodhand & Hulme (1999:16) claims that "CPEs have political causality". It can be difficult to isolate root causes or central dynamics in many conflicts, seeing that many factors tend to be interconnected, and motives may change over time. One example of this is the debate of whether greed or grievance is the most important motivation in some conflicts. It is legitimate to ask this question for Sudan as well; Switzer (2002:16) claims that "the conflict in the Sudan has been exacerbated by competing claims in regards to access to and control over the oil fields and the land areas they represent; and to the right to participate in decision making over oil rights allocations and share in the benefits of oil production". However, Switzer does not take into account the long history of social conflict that played out long before oil fields were discovered. An analysis that narrows the causality of conflict only to this one factor will always be inadequate, although oil has become an important theme in Sudan now that it contributes for most of the income in the country. The concept of *political origins* can incorporate many factors and becomes almost analytically useless because it is hard to imagine a conflict where "changing or maintaining existing patterns of power" (Goodhand & Hulme 1999:16) is not a central dynamic, especially if competition over resources are taken into account as well. One central element in the conflict is that many people of South Sudan want to change the power constellation in order to create a sense of freedom from or equality with the North. This must be seen as a fundamental political aim.

Protracted durations. The conflict in Sudan has been one of the longest most protracted conflicts on the African continent after the colonial era. Since 1955, there has only been eleven years of relative peace between the North and South. It cannot be regarded as some sort of crisis that once solved will cause a return to a normal level of violence in society. The length of the conflict can indicate at least two things; the causes of the conflict are deeply rooted in society, which will demand a comprehensive solution; and the conflict has probably created its own dynamic, whereas a war economy, -mentality and –politics permeates society. Collinson (2003:15) claims that "any society's political economy will be transformed by, or in, conflict", in other words, the way people think, act and make their living will be changed by a conflict, and especially when children grow up during conflict, it can take time for them to get used to a peaceful mindset and a peaceful society. In addition, leaders have also been

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raised or come through a political system that is defined by war. The transition can be difficult, as seen in the period after the Addis Ababa Agreement, when the state administration was built on the dubious foundation of former fighters and too few experts, led by people loyal to Khartoum, as explained earlier. In essence, the society did not solve any of the differences or problems; the agreement merely achieved in halting the violence but failed in solving the conflict.

Social cleavages are a most important factor with regard to the conflicts in Sudan. Every society has social cleavages to some extent and they appear in various forms, therefore it is essential to identify what the significant factors are in each society that separates people or creates the narrative of cleavage. Tsung-Tao Yang, the Deputy Director at the U.S. Department of the Treasury wrote that "Cleavages based on class or ethnicity can polarize a society, undermining opportunities for social cooperation and stimulating incentives for social conflict" (Yang 2003:3). In a peaceful society, different cleavages manifest themselves through political parties or interest organizations, which in a functioning democracy can be seen as healthy. An example of this can be when the working class unites through labor organizations or political parties in order to gain rights and privileges that they lack because of the cleavage between workers and owners and the skewed power relations in that regard. In Sudan as in most countries, many issues separate people, on a cultural, social and ethnical level. When looking at Sudan from a satellite picture, anyone can see with the naked eye how the nature has divided the country in two parts, the sandy desert in the north appear warm and desolate, while the South, starting at South Darfur, South Kordofan and the Blue Nile appear green and lush (see appendix B). While nature is not a social cleavage *per se*, the geography tends to create opportunities and advantages for the population. The most prominent example of this in modern times has been the location of the oil fields in Sudan, where most of the oil is located in the South bordering to the North, whereas the only way to transport oil is through the North from the Port of Sudan (see appendix C). Although a lot of focus is placed on oil when talking about this conflict, it is important to emphasize that it is only in the recent years that oil has been an important factor, but the conflict has been going on much longer. When compared to the Addis Ababa Agreement, this was not the most important issue at the time. The issues were more political than economical, autonomy in the south with sovereign political rule, freedom of religion and English rather than Arabic as the official language was key points in the agreement and its protocols (Shinn 2004:242).

The best way to describe Sudanese society as a whole is that it is diverse. Harir (1994:20) portrays Sudan as a good example of a plural society which is divided by 'segmental cleavages'. Such cleavages are fragments of societies that can create great differences between people; they can be religious, ideological, linguistic, regional, cultural, racial, ethnic etc. In some contexts, these segmental cleavages can be neutral or even unifying, but in other contexts, they can be exclusive and problematic. An example of this is the use of Arabic language in Sudan; in the North the use of Arabic in the formal educational system does not cause any disconcert. In Southern Sudan however, the use of Arabic as the *lingua franca* in national curriculum is problematic, seeing that there is no link to the Arab language or culture in these areas. In addition, the Arab language connotes a certain undertone of racial supremacy that go for back in history. In such cases, this fragment of culture creates frustration. The language example illustrates a core problem in the Sudanese society; the centralized government in Khartoum decides policy from the 'top-down', with no foundation in peoples will on the ground. This manifest itself in the social system; many different social groups and ethnicities work together under the umbrella of an authoritarian regime. Tvedt (1994:69) characterize the institutions in Sudan by "a lack of integration and complementarity between various parts of the social system". With no common denominator in the society, no consensus of values, the society got fragmented into relatively independent sub-systems.

Social cleavages and *ethnicity* is not the same, this is important to emphasize when analyzing this conflict in particular. While many observers rightfully point to the long history of Arabization in Sudan and the constructed dichotomy between those influenced by Arab culture and non-Arabs that was entrenched by the colonial administration (Sharkey 2008:21), and the social cleavages in the country follows this ethnic separation, there is a distinct difference with regards to identifying the root causes. Ethnicity in Sudan is a complex issue, which encompass a significant factor in explaining the dynamic in the conflict and is also intricately linked with the root causes. As Paglia (2007:15) explains, "the relative peacefulness of the previous centuries suggests that ethnic diversity does not constitute a major problem in Sudanese multi-ethnic societies. Ethnic diversity becomes conflict as a consequence of external factors". Her argument is that other factors can have a negative impact on existing ethnic diversity, which is passive *a priori*. Economy, political competition, marginalization and inequality can become factors that generate a negative impact on the ethnic diversity that triggers frustration and separation between the respective ethnic groups. In turn, this can lead to increased support to parties or movements that draw their political or

ideological ideas from ethnical conflictual problems. This ethnicity becomes a 'segmental cleavage' which is construed from a society where social cleavages of many forms permeate social relations. This process of crystallization around revolutionary parties that use ethnicity or other segmental cleavages to gain support creates the notion of a ethnical conflict. In a post-conflict situation, it is important to recognize such trends, in order to assess whether they will wither after the conflict and create new internal conflicts in the power vacuum it might leave. In many cases, the same alignments tend to follow in the aftermath, much like the political scientists Seymour M. Lipset and Stein Rokkan discovered in the emergence of party systems after the democratic polities came to Europe; "traditional divisions had been 'frozen' in political terms and…. European party systems still reflected the structure of societal divisions which had existed…" (Kriesi 1998:165). In more recent history, this phenomenon can also be seen in South Africa, where the African National Congress (ANC) have retained power for 17 years after the apartheid era, where they were regarded as the liberating party by most of the public. In post-CPA Sudan, it is imperative that the new regime, especially in South Sudan deals with social cleavages. Both when it comes to creating a new unifying national identity, but also to even out economical differences. But it is also important that they let new political thoughts emerge and be able to gain power through democratic principles, despite the SPLM/A's status as liberators.

Predatory social formation is the last feature of a Complex Political Emergency. "CPEs are often ethno-nationalist in nature, characterized by a virulent loyalty to one particular social group, accompanied by equally strong feelings of antipathy towards other social groups living within the same state" (Crisp 1995:110). This quote describes the regime in Khartoum and the attitudes towards non-Arabs very well, given the attitudes from the strong central state at the Arab elite towards the poorer rural areas and their different beliefs, cultures and languages. During the 1990s, President al-Bashir declared that his regime in Khartoum was fighting for Sudan's Arab-Islamic existence, and that the policies of Sharia law and the Arabic language were rooted in divine orders, and that the war against non-believers was to be considered as jihad, holy war (Lesch 1998:22). Of course, such processes are often a two-way street; as the project of *ta'rib* was manifesting itself as a racist, violent mission against every non-believer, carried out by well-armed Arabs that could kill with impunity (Sharkey 2008:39), the response was armed rebellion which grew strong in the outskirts, like Darfur and Southern Sudan, that had access to military aid from their allies. John Garang got very popular by demanding a new Sudan based on an African ideological foundation, not

Arab. These thoughts resonated in various regions and in one instance inspired Darfurian rebels of the Sudan Liberation Army (SLA) to commence an attack on the government garrisons in El Fashir 2003 (Sharkey 2008:38).

Cultural dominance through violence is not the only thing that characterizes a predatory state. Lundahl (1997:48) describes a significant feature of the predatory state through its rent creation; it has economical mechanisms that "use resources to redistribute income and wealth without creating any goods or services that are demanded by the general citizen". Is such an economy, resources are not allocated as they should be, and this may cause unproductive activities to drive productive ones out, causing economic regression. According to Siddig, El-Harizi and Prato (2007:48) Khartoum has displayed a massive interest in exerting ownership over all land not registered as property in Sudan; although they present it as necessary for state building in a post-colonial period, this assertion has been refuted on the grounds that it enabled the Arab elites to undertake predatory actions linked to these land resources by distributing them as political rewards to their clients, thus creating a patron-client structure founded in land areas that should be distributed according to public will in a democratic society. For many African states, such clientilist structures have been implemented instead of institutional or legislative strategies. Such systems are often dependent on an ethnic majority in the country that supports one party or president. For Sudan, the regime in Khartoum wins politically by representing the Arab 'superiority' and marginalizing the others. If opposing politicians or parties want to have any ambitions of power or wealth in such a system, the best tactic is to align or strike deals with the majority regime and not to create opposition coalitions. According to van de Walle (2003:314), the problem with the clientilist structure is that parties do not serve to preserve interests of the people, but they rather serve to maintain a certain representation function "in a context of clientilistic politics that are dominated by a disproportionately powerful executive and are only imperfectly democratic". When taken into account, the structure of the regime in Khartoum and the aggression towards 'the others', it is obvious that state structure has been an important factor in the conflict.

This problematic is not exclusive to the Khartoum regime either; as mentioned above, the SPLM/A gained much support on being the strong opposition to the North, and being the liberating movement for South Sudan. However, there is a political opposition in the South that has been excluded in the CPA and marginalized as opponents in the emerging political landscape. Resentment in this group of opposition can be a dangerous element in the post-

secession state building process; on the one hand the political opposition had the crucial task of controlling the political process and to create a feasibly political option for the people of Sudan. On the other hand, too much resentment and acting through wrong channels could prove detrimental; the International Crisis Group (2011a:5) reported of post-election rebellions in Sudan, whereas the SPLM/A fell back on what it knew best in times of crisis, namely military administration. In order to manage the diverse, secular state that was the initial aim, a more nuanced approach is needed.

Opposition in South Sudan is weak; there are no good infrastructure in the country and few resources that can support national political campaigns. Party bases are scattered, or limited to specific regions or ethnic segments (ICG 2011a:16). This foundation does not provide for a good political climate, and if not real political competition is established early, the young country can fall into a mono-political culture that was initially the enemy. Albeit the difficult political climate for healthy opposition, some progress is being done that can provide some hope; the Sudan Tribune (2011) can report of a gathered opposition, consisting of 18 leaders from various parties, meeting to find a common ground for a coalition that can challenge SPLM in the future. It remains to be seen what kind of political alignments the parties will unite around.

3.6.3 The continuity of the conflict as a Complex Political Emergency

When understanding conflict as more than just violence, it is possible to identify causes that are structural and built into the society. This chapter has discussed some of these structural factors to the conflict, with the aim of creating a more eclectic approach than focusing only on one segment of the conflict, like greed or grievance. Goodhand and Hulme (1999:18) support this approach to analyzing conflict, whereas it differs from the traditional notion of a beginning and an end to conflicts. A conflict should rather be viewed as a social process that reshapes original structural tensions by massive disruptions. With this perspective, one can view the Sudanese conflict as a whole, and trace how structures changed and the dynamics of conflict changes over time. The second aim is to draw the lines from the failure of the Addis Ababa agreement to the process of the CPA and assess what the potential issues can be for a regression in the peace process. Instead of looking at the secession as the end of the conflict, rather watch it in light of the previous process, and discuss how this changed the process and what kind of challenges that is not solved by it, and if new

challenges have the potential to arise after the secession. As this chapter highlighted some of the core structural issues that have separated the people and caused frustration and resentment between social groups in Sudan, the following chapters will discuss which of these core issues are going to remain contentious if not resolved properly, despite a cease fire and despite secession.

One important source of conflict in Sudan has been the unequal access to both economic revenue and the political system, as explained earlier. These are grievances that will not disappear because of a cease fire, but through secession these will have the potential to change into a new dynamic. Throughout chapter three and four, the effects of secession versus power sharing, and the effects of a new political and economic regime will be discussed. With regards to the difference in the process after the Addis Ababa agreement and after the CPA, the new challenges will be to create well-functioning structures for redistribution of revenue and access to the political regime, in the South. In the North, there are numerous challenges regarding the minorities that are non-Arab, will these gain access to the northern political regime? The CPA may have created a more difficult situation for these minorities, in the sense that the proportions of Arab ethnicity has increased following the secession. Before the agreement, this marginalization with the racial and religious discrimination was major factors in the process that lead to war. For many people, especially in the North, this marginalization will continue; areas where this may be a problem is located in the border- and rural areas on the southern and western rims of North Sudan. These areas, like the Nuba Mountains in Southern Kordofan and the Blue Nile state will be discussed further in chapter four.

Along the vast border areas are also most of the existing oil fields situated. During the late 1970s, oil was discovered in Southern Sudan and the economy in Sudan was on decline. President Nimeiri wanted to seize the future oil revenue in order to secure the financial survival of his regime. In order to achieve this, a bill was passed that distorted the provincial boundaries so that the oil region and areas rich of other minerals became a part of the North (Badal 1986:144). According to Ylönen (2005:121), the unfair claim to this land was an important reason why fighting broke out shortly after. This is an interesting example when comparing to present issues that need to be resolved. Since the area of Abyei had been so fiercely disputed from both sides, the situation can resemble the one in the 1970s; one area that contains valuable resources, which are majorly important for both parts, no agreement on how to share this. In such delicate situations, small incidents have the potential to escalate into larger revolts.

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Another area that is going to be affected by the peace process between North- and South Sudan is the western area of Darfur. Without going in depth of the isolated problematic of that region, it can still be reviewed in the light of the North/South peace process. The war in Darfur broke out in 2003, one year after the signing of the Machakos Protocol. Although some wanted the Darfur conflict to be included in the CPA negotiations, it would have made the process a whole lot more difficult. The opposing voices claimed that the conflict in Darfur was very different than the North/South, and that it didn't belong in the same agreement (Abulemoi 2011:46). However, the conflicts don't differ significantly from each other; the Justice and Equality Movement (JEM) and the SLM/A fought in Darfur against what they perceived as oppression of non-Arabs. John Ashworth, an advisor on Sudan issues with ties to Christian organizations commented to the Sudan Tribune that the peace agreement would make it more difficult for Christians and other non-Muslims living in the North, especially in Darfur, who would now become further marginalized (Uma 2011). This is an important issue which will be further discussed in chapter four.

3.7 Conclusion

This chapter has given a descriptive analysis of the historical context to the conflict and the divisions in contemporary Sudan. How the Arab influence in the north affected those societies, but further west and south, other beliefs and cultures prevailed. During the Anglo-Egyptian Condominium Sudan was framed within one state structure that favored the Arab elite, thus creating and enforcing an ethnically based hierarchy. Although constructed, this notion of superiority in the North conflicts with the marginalized people and created a division in Sudan where people are opposed to the state on the grounds of their cultural, religious and ethnic heritage. When the central elite in Khartoum decided to campaign with violent means in order to 'Arabize' the country, the opposition became more violent as well, this resulted in the Civil war of 1955. Of course, with this narrow historic perspective, it is important to emphasize that social problems in Sudan reached further than just ethnic divisions; a centralized predatory state, poverty in the rural areas were also important factors.

Such factors become more evident when looking at the sources of failure for the Addis Ababa Agreement of 1972. As Tvedt (1994:72) points out, there were serious structural problems that were caused by scarce resources, massive lack of competent labor for important positions and a general lack of funding. In addition to this, the extreme lack of autonomy in

the region after a dispersed army and an influx of Northern representatives in important positions created resentment with the people of the South, which shortly became a recruitment haven for the newly constituted SPLA.

Through using the framework that was provided in this chapter in order to assess many societal and structural sources of conflict, a more complex explanation was reached. In addition to assessing important flaws in the the agreement and its implementation, the overarching aim is to illustrate how the sources of conflict can prevail despite of a cease fire or even a peace agreement. This way of looking at conflict is important for the following chapters; when assessing the sources of conflict in comparison to power sharing- and secession theory, one can identify what aspects of the conflict that will continue to prevail and if any new problems can emerge through such a process. Further on, this is also an important intellectual foundation when assessing the CPA with regards to sources of conflict.

Chapter 4: The Comprehensive Peace Agreement – How secession was achieved and why the conflict is not over

4.1 Introduction – The significance of a new international climate

To work towards peace is a process that will take time, and should be done thoroughly. As argued in chapter two, the Addis Ababa Agreement was a relatively rapid process with little foundation in a serious desire to solve divisions deeply rooted in the Sudanese society. Violence reemerged and the failed peace process constituted the continuation of Africa's longest civil war. With this experience still in mind, the second attempt at a peace process was formally initiated on 6 December 2003 in Naivasha, Kenya. This effort was the result of almost 10 years of dialogue between the regime in the North and the SPLM/A, initiated by IGAD in 1994 with support from the Ethiopian Prime Minister Meles Zenawi and the Eritrean President Asaias Afewerki (Ahmad 2010:7).

The time that was invested in these negotiations and the sober realization that the process would need to span over many years may have reflected a serious aspiration to reach a peaceful solution from both parts. SPLM/As leadership had learned some important lessons from the agreement in 1972 which reflected in their thorough and time consuming approach to the Comprehensive Peace Agreement (CPA). Why the parties found the time ripe for negotiations is still debatable; some say that the will to meet at the negotiation table was spurred by outside pressure. Emeric Rogier, a senior analyst for the Clingendael research institute and the Office of the Prosecutor at the International Criminal Court (ICC) claims that the terrorist attacks that hit the United States (US) 11 September 2001 "dramatically impacted on the bilateral relationship between the US administration and the GoS, thereby creating the environment in which a new international peace effort saw the light" (Rogier 2005a:45). Shortly after 11 September 2001, Khartoum claimed their support in the war against terrorism in order to gain vital support from the US and not to become identified as a target for the American retribution either. As a result of this shift in policy in Khartoum, the handling of the southern question was going to need a different approach (Rogier 2005a:54). At the other side of the border, SPLM renewed their strength, after Sudan People's Defense Force (SPDF) signed a reconciliation agreement and joined forces with them, causing an end to a ten year long dispute between the Dinka- and the Nuer people. In addition, the SPLM merged forces

with a group of northern Muslim Sudanese Allied Forces, making the movement a serious threat to the Northern regime.

Given that the US was so influential in the process of changing the climate of politics in Sudan, it is interesting to note that US President Bush appointed a new Special Envoy for Peace in the Sudan, Senator Danforth (Rogier 2005a:57). The new special envoy started out by testing the waters; he wanted to know how susceptible the parties really were to commitment and cooperation. After all, there have been many agreements in the Sudan throughout history, but not a history of keeping any agreements. As Danforth himself said: "The history of Sudan is littered with dozens of proposals and agreements to end the fighting. These agreements all have one thing in common: none was implemented, and none brought Sudan closer to peace" (Danforth 2002:4). In order to learn more about their willingness to cooperate, the special envoy carried out four tests with humanitarian aims where he demanded concrete action from both parties. Three of the tests had various ways of cease fire or military stand down as aims, whereas the last one related to the slavery issue. In especially the last one, a relative success could be measured when Khartoum brought this issue under direct control of the President and allowed foreign instances of control (Danforth 2002:16). Although this effort contributed to some humanitarian reliefs, it was not ground breaking nor even wise. Critics point to the potential of failure on such tests, which could be detrimental in effect. In addition, it takes away focus from the fundamental issues (Rogier 2005a:59). What is interesting however is the fact that both parties in the conflict actually did show the signs of ripeness that Senator Danforth was hoping for. This may stem from many reasons, but it is not unlikely, that the increased international pressure made the option of compromise more appealing.

Under the circumstances, one viable option for the Americans could be to make an attempt to take matters into their own hands. After acknowledging willingness from both parties, this was within reach. However, the Special Envoy focused on listening to various stakeholders and important actors, like President Moi and President Mubarak. Seeing that there were so many peace initiatives at the time, he focused on consolidation and encouragement, rather than undermining the current initiatives. Through years of dialogue and compromise, this eclectic approach culminated in an agreement that would be the underlying platform on the progress towards peace.

The seminal moment for this agreement found place on 9 January 2005 when the document was signed by both parties. A new state model was to be implemented, which according to the Chairman of the SPLM at the time, John Garang de Mabior, was "a unique peace agreement that, in effect, prescribed a one-country-two-systems model" (UN Security Council 2005). The agreement did also reflect a certain understanding that the process would have to integrate many aspects of society which respectively needed a sizeable time frame to implement. Six years were reserved for implementing the CPA, where in the end the South would have the option to vote if they wanted to continue with the two-system model, or to secede from the North as an independent state which would be decided by a referendum (UN Security Council 2005). In February 2011, it was apparent that South Sudan chose independence, when the votes from the referendum were counted and 98.83 per cent opted for secession (Kron 2011).

The aim of this chapter is to continue the analysis of the peace process with a focus on the Comprehensive Peace Agreement. The structure will follow the chapters in the agreement in order to assess; the most integral part of the conflict; the peace process; and the negotiations that lead to it. Throughout this process, the experiences from the Addis Ababa agreement will be used for comparison in order to illuminate certain similarities that haven't been improved or other pitfalls. On that note it is important to emphasize that there are significant differences in the two parts of the process; different actors; local innovation such as the discovery of oil; changes in the international norms when it comes to intervention; in addition there has lately been changes in the regional constellations during the 'Arab spring', whereas Egypt has gained new leadership. As for this study, the aim is to perceive the conflict as a whole, based on the thought that a conflict is not necessarily confined by borders or agreements - complex root causes like sociopolitical relations, economy, poverty, a history of conflict, geopolitical power struggles is what will decide how the process goes. In order to convey this, one has to assess many aspects of the conflict and pinpoint the ones that are most liable to fuse the conflict together despite the secession. Many examples can be drawn from this chapter, like the geopolitics of oil, the solution of the Abyei, Southern Kordofan and the Blue Nile State. The argument of this study is that it would be misconstrued to describe Sudan and South Sudan as a success story based solely on the secession. This chapter aims to illustrate this.

4.2 Establishing the peace agreement – the Machakos Protocol

241 pages constitute the Comprehensive Peace Agreement, signed by His Excellence Ali Osman Mohamed Taha as the representative for the Government of the Republic of the Sudan, and Dr. John Garang de Mabior as the representative for the Sudan People's Liberation Movement (CPA 2005). It is also signed by 14 witnesses, representatives for organizations or countries involved in the peace process. This document is the foundation that political process and public debate will revolve around for many more years. It defines how power and wealth will be structured, and how the society will appear in the post-conflict era. This section will outline each of the five chapters in the CPA and address some of the main implications of each chapter as the foundation for a multi-disciplinary theoretical analysis that will follow.

Chapter I is called 'The Machakos Protocol', named after its place of origin and it was the result of the long peace talks beforehand. Ahmad (2010:7) describes it as the "backbone" of the Comprehensive Peace Agreement. The protocol is divided in three categories; 'Agreed Principles'; 'The Transition Process' and; 'Structures of Government'. The structure seems logically to transform abstract principles down to a pragmatic level. An example of this is how the principle of rights to govern affairs in own regions is followed up with a structure to ensure this in the government. As a "backbone" its principles regarding individual human beings would resemble the more progressive constitutions in the world, based on human rights and equality for all. Furthermore, it serves very much like a vision for the continuation of the peace talks, that a democratic system of governance shall be established, where cultural, ethnic, racial, religious and linguistic diversity is taken into account. Whereas much of these principles resemble conspicuously what anyone would expect the external agents from the West to formulate, there is one vision principle that is worth emphasizing: "Design and implement the Peace Agreement so as to make the unity of the Sudan an attractive option especially to the people of South Sudan" (CPA 2005:2). Despite popular opinion in South Sudan, Dr. John Garang de Mabior envisioned a unified Sudan. During all the twenty years of fighting against the regime in the North, he consistently stuck to this conviction that the North and the South could unite and live in coexistence. His vision was that the "New Sudan" was not going to be an Islamist state, but a democratic inclusive state for all races, tribes and religions, and the structure of the state would resemble much like how it was in the pre-referendum period (Collins 2005). It is interesting that Garang's vision would be popular on any side of the conflict, since he was opposed to secession and at the same time didn't want

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an Islamic state. Despite this contradiction in terms, he managed to gain much popularity and respect both at home and in the North; he was actually met with a large cheering crowd when he visited the Green Square (Sahah Khadrah) in 2005 (Ahmad 2010:8). Considering the respect that Garang had gained on both sides, the peace process became unstable when the 30 July 2005 he was killed in a helicopter crash, after leading SPLM/A for 21 years (ICG 2005:1). In retrospect, the fact that the peace process continued in the same tracks under the leadership of the secessionist Salva Kiir in the time after proved that it was not dependent on just one man, which should be regarded as a positive sign and give added legitimacy to the process. It is however, important to point out what experts like Robert O. Collins at the University of California argues; that Garang's death resulted in an increased support for Southern separatists (Pan 2005).

4.2.1 The transition process – establishing rules for the interim period

Furthermore, the protocol dealt with the transition process. This is what would bind the ambitious principles to the reality on the ground. This process would be executed in two different sequences; first a pre-interim period of six months, then; an interim period of six years. In the first period, the hostilities should cease, together with the establishment of institutions and mechanisms that could support the new regime. The second period would be the active implementation of everything that has been established in the first period. It is also noted that everyone is eligible for public office and presidency, regardless of their beliefs (CPA 2005:5). During this interim period it was crucial that the ceasefire would be upheld, in order to create space for the two parties to implement the peace agreement with as much success as possible. To ensure this arrangement, a multi-layered structure was used to monitor the ceasefire and to confirm that all forces were re-deployed to agreed areas. The two main bodies in this structure is; the Ceasefire Joint Military Committee (CJMC) a military decision making body that is located in Juba, chaired by the UN Force Commander and his staff; the other is the Ceasefire Political Commission (CPC) which is a political decision making body composed of senior political, military and legal party representatives, the Deputy Special Representative of the UN Secretary General and observers from IGAD (Rogier 2005b:27). However, despite much high ranking international personnel present, there was no mechanism to involve the UN or the international community in case of violations, which in essence meant that the two parties would act as their own judges and enforce matters single-handedly.

Most of the CPA separate between during and after the interim period; this is often a compromise, whereas the referendum will decide whether to continue with the structures established in the interim period, or to secede and create separate systems individually. The third and last part of the Machakos Protocol regards the 'Structures of Government'. This describes how the government and judicial system will function during the interim period. An emphasis is placed on the constitution as supreme law, this constitution guarantee freedom of belief, worship and religious practice to all of the Sudanese people. One of the main compromises in the protocol is the agreement on Sharia laws; the SPLA accepted such legislation in the North, but it is stated that they need to have consensus of the people and that it only shall have effect outside of Southern Sudan (Rogier 2005a:65). The question of independence for South Sudan is also addressed in this part of the agreement, where it is stated that "At the end of the six (6) year Interim Period there shall be an internationally monitored referendum … for the people of South Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession" (CPA 2005:8). Such is the end of the Machakos Protocol, a compromise it is difficult to understand that the North would agree to. As argued earlier, the context is imperative to understand what kind of pressure was needed in order to consent to this compromise; a committed US on the search for relatively unidentified culprits within worldwide Muslim networks, and; a strong South Sudan, with a leader that worked for a united Sudan.

4.3 Restructuring of power – governance and institutions

Chapter II regards 'Power Sharing', a subject has been discussed in the previous chapter. The mechanism of sharing power is in the agreement well planned. The GoS pledge to protect and promote the national sovereignty and the welfare of its people, while the Southern Sudan level of Government are to exercise authority in respect of the people and States in the South. (CPA 2005:12). As noted earlier, the principles behind the new state resemble the UN Universal Declaration of Human rights. They include the right to life, personal liberty, freedom of religion, expression, assembly, right to vote and equality before the law. There is one relative upside of drafting such important documents in these days rather than hundred years ago. It has the potential to be more progressive than the more established

states. One example of this is the South African constitution that came into effect in 1997 which often is referred to as the most progressive constitution in the world (Marshall 2011).

A special remark regarding the principles is number 1.6.2.3 Slavery, this principle state that "No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited". The GoS have earlier been linked to the Murahaleen, a militia from western Sudan, which raid villages and abduct civilians to use for slave labor. The accusations have been that they arm such militias and use them as some sort of proxy forces (Rogier 2005a:58). As noted earlier in this paper, US Special Envoy and Senator Danforth attempted to test the two parties will to cooperate by asking them to carry out various requests that would be difficult with regard to internal politics on both sides, whereas one of the requests was that Khartoum would strengthen its anti-slavery commission, plus facilitate a US-led mission of eight investigators that could pursue charges of slavery (Danforth 2002:16). Danforth concluded positively with regards to this special test, after it was carried out and the President brought the anti-slavery commission directly under his control (Rogier 2005a:61). In retrospect, there is still a lot to be done in the Sudanese society when it comes to abolishing slavery. Christian Solidarity International reported of many instances of slaves being mistreated as late as 2010 (CSI 2010). Obviously, this is a difficult aim to achieve in such a large, diverse and impassable country; the span from written words and agreements to a change in actions and attitudes has been large in Sudan.

4.3.1 Problems regarding the implementation of institutions

"It is easier to fight for one's principles than to live up to them", Alfred Adler once said. This might not always be true, but in the case of implementing a peace agreement, it pinpoints the most difficult obstacle: Applying the agreed terms to a war torn society. In order to transfer the agreed principles to everyday politics, one needs tangible step-by-step goals. The second part of Chapter II addresses this issue by mapping out the technical composition of the institutions that are going to exercise power. An interim government was established by the mandate of Chapter II, whereas the NCP would control 52 percent and the SPLM 28 percent, the rest would be divided amongst other parties from both sides. This constellation was named the Government of National Unity (GNU). As a structure, it was supposed to reflect real power relations in the country, but as a government the aim was to provide power sharing between the North and the South, and additionally spread participation throughout the

country, to the far regions. On the one hand, this experiment could result in too much power taken away from Khartoum, causing the regime to withdraw their efforts and regress the peace process. On the other hand, Khartoum could end up with too much hold of the South, causing rebellion amongst its citizens, much like how the ceasefire of the Addis Ababa Agreement ended.

Despite an admirable effort to establish the GNU, there seemed to be little transformation of the Sudanese political, social and economic reality; according to reports from the International Crisis Group (ICG), the power in Sudan has only become more centralized in Khartoum and around President al-Bashir (ICG 2011b:i). In 2009, the Human Rights Watch (HRW) urged the GNU to take action, as the violence around the border areas seemed to increase; the fear was that these fights that took place around the border areas would compromise the Joint Integrated Units (JIU), which is a composition military branch, consisting of soldiers from both sides (Gagnon 2011). Two years later, in June 2011, The New York Times could report that the situation was far from stable. Clashes in Southern Kordofan between northern military forces and southern allied forces caused tens of thousands of people to migrate (Kron & Gettleman 2011). Violence in these disputable border areas can contribute to instability and worsen the relations between the two parts. But another dimension to this conflict serves as a serious problem: Internal fighting. Between January and the end of June 2011, there were reports of almost 2400 people dead because of cattle raids and other internal South Sudan clashes (Farkas 2011).

Failure to establish credible democratic institutions with real ties to the local communities was in the last chapter mentioned as one of the important factors that weakened the peace process. In this regard, there are good reasons for looking at the emerging political regime in South Sudan, what kind of legitimacy they will have at the local level and how the state institutions will be formed in order to support the people. Although tangible results on this field have to take time to develop, the political leaders of South Sudan delivers promises; the people will gain access to state services, the state will deal with corruption and insecurity issues (Jok 2011:2). As for the post-election situation in South Sudan, the government is not capable of protecting its own civilian population, which is one of the basic functions of a state (Breidlid & Sande Lie 2011:11). This task has been left to international actors, which is not a sustainable practice. With a budget of USD 2 billion, the new government will have to strive in order to reach any of the ambitious goals for development (Jok 2011:12). Not any sector in

the government can be fully equipped to meet its challenges with that kind of financing; hence making foreign independence a big issue in the time to come.

Institution building will generate some big important government bodies, but also many minor and temporary ones. It is important for all stake holders to ensure that the first steps of a new nation is in the right direction. Some of the other independent or national institutions that were created through Chapter II was; a national electoral commission, a human rights commission; a civil service commission; an ad-hoc commission for monitoring the referendum, and; a fiscal and financial allocation and monitoring commission (CPA 2005:27). These institutions will build the framework for South Sudan, and will participate in deciding what kind of future that will come to be. It is important that they will gain legitimacy through their own work and a solid foundation in the various local communities throughout the country.

Previous experience with power sharing through the Addis Ababa Agreement was not successful, although the basic institutional framework was there. An important difference in the CPA is the level of autonomy given to the south. Through Chapter II, Part III, a Government of Southern Sudan is constituted, in order to administer the constitution that was yet to be drafted. Instead of having representatives from Khartoum occupying the most important positions, the SPLM now would have 70 percent majority in the interim government of Southern Sudan. This assembly was to govern prior to the election, NCP had 15 percent of the representatives, and other Southern political forces possessed the remaining 15 percent. Relations within the Southern political landscape were difficult because of the dominance SPLM gained through the peace process. In addition to shortage of funding, the lack of political eclecticism was one of the major points of critique to the IGAD initiative (Apuuli 2011:353). Other parties were sidelined in the entire process, which culminated when drafting the constitution in March 2011. Representatives from other political parties chose to pull out from the technical committee because they were constantly undermined by SPLM (SSNA 2011). In assessment, the level of democracy is integral in this process, and even though the government in Khartoum have less direct influence in the new power structure, it does not automatically mean that the process is very democratic. Internal instability can be very detrimental for South Sudan in the future. Abulemoi (2011:89) argues that proportional representation would contribute positively to the process, instead of marginalizing minor parties and armed groups, forcing them to still using violence in order to protect their interests.

4.4 Sharing of wealth – a contentious issue

Chapter III of the CPA regards the founding principles for sharing of wealth amongst North and South. The division of resources and the redistribution of revenue are issues that in themselves have an enormous potential for conflict. Therefore, it is important to emphasize that the argument throughout this thesis suggest that any form of explanation based solely on resources or aspects of greed will at best be too narrow. The conflict dates back before any oil or other valuable resources would be worth fighting over; explanations of root causes should historically be based on marginalization and abuse of power by the elites. With that as the underlying assumption, other factors of conflict can be linked causally back. Religion and ethnicity is one example that became more important as the ruling elite used such divisions actively in their hierarchy of society. Control of wealth is also a type of conflict that derives from the root causes and can take on its own dynamic within the whole process. The role of oil for example has become an important issue in later years, because the Sudanese economy has become more and more dependent on revenue from oil (Gadkarim 2010:7), making it a more important issue. As D'Agoot (2009:119) points out, the issue of oil in Sudan has always been a contentious problem; the exploration and occupation of oilfields have become increasingly important for the Khartoum government in order to find new sources of revenue. On the other hand, the South has perceived oil exploitation as an act of plunder. This lead to military attacks from the South dating back to the 70s. The same dynamic was obvious the first year after the secession, when the Southern army moved into the Heglig oil field, which is located in the disputed border areas. This move resulted in long lasting attacks from the Northern army, accompanied with air strikes (Holland & Maasho 2012). Although oil sharing is an important part of the conflict resolution, this section will also discuss other financial aspects to wealth sharing, which can be equally important, like redistribution policy and currency.

Reaching an agreement on wealth sharing was a troublesome process. In late 2002, the discussion focused on land ownership and revenue, and the difference amongst the two sides was incompatible; the SPLM interpreted the Machakos protocol as the foundation for a confederate structure where the South gained greater autonomy, whereas Khartoum still regarded the control of wealth as to be remained centrally (Abulemoi 2011:126). The mediation remained fruitless until May 2003, at that time there were still no agreement on the sharing of wealth or power and there were no agreement on where the areas of Abyei, Nuba Mountains and Blue Nile should belong to. At this point, Mediators from IGAD changed their

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tactic; instead of dealing with individual issues the mediators chose to discuss all the outstanding issues at once, which opened up for making compromises across the main issues (ICG 2002:2). This approach was manifested by the Nakuru Protocol, a suggestion from the mediators on what they regarded as fair compromises. Basically, it was a document containing the most contentious issues, presented from an external angle (Reliefweb 2003). This was not received well from the northern representatives, which disagreed strongly to issues regarding power-sharing, security and wealth sharing. President al-Bashir rejected it flat out, and the peace process seemed to come to an abrupt end (Justice Africa 2003).

Recovering from the Nakuru breakdown was difficult for the mediators, but after hard work, they got the parties to join together again, this time with General Sumbeiywo from Kenya as the chairman. This new approach had a better dynamic, whereas the parties gained more flexibility when it came to the process itself, setting the agenda and finding their own compromise (ICG 2002:1). The SPLM put forward their own approach to sharing wealth, which contained many elements of physical separation; separate central banks and separate currencies. These suggestions were met by Vice-President of Sudan Ali Osman Taha with distress. But through discussions, he and John Garang reached an agreement on monetary policy, central bank, currency and land rights. Within short time, they managed to resolve many intricate issues, including the sharing of oil revenues. On 7 January 2004, the progress was concluded with the parties' signatures on the Agreement on Wealth Sharing (CPA 2005:45).

4.4.1 The wealth sharing agreement – financial aspects

This agreement begins with guiding principles for the sharing of common wealth, which can be read as a foundation for the mediation, but also as an acknowledgment of many problems that especially Southern Sudan are facing. It states that "The sharing and allocation of this wealth shall be based on the premise that all parts of Sudan are entitled to development" (CPA 2005:47), and continues to recognize that the South have more dire needs when it comes to the performance of basic government functions, civil administration and reconstruction of the social and physical infrastructure after the conflict. Further on, in section 1.8, it goes as far as accept that the sharing of revenue is actually going to reflect a process of power devolution, with decentralization of power as an aim (CPA 2005:47). Such admittance

from the Northern regime has to be regarded as a big concession for them, but also a step towards a more democratic Sudan.

In essence, the agreement on wealth sharing provided a new method of structuring the redistribution of revenue. All revenue collected nationally would be collected in the National Revenue Fund (NRF), which would be administered by the National Treasury (CPA 2005:56). From there, funds would be allocated to the proper recipients according to the agreement. This process would also be transparent and open to the public, but to ensure this properly, the Fiscal and Financial Allocation and Monitoring Commission (FFAMC) was constituted. This commission was to be composed of representatives from all states and regions of Sudan, together with representatives from the GoS and the GoSS (CPA 2005:57).

Although transparency and proper allocation of wealth certainly are positive features of the CPA, one aspect of this agreement is of particular gravity; the new banking system and currency. As mentioned earlier, this issue has been highly disputed in the negotiations. The reason behind this can be traced back to the Addis Ababa Agreement. Another lack in that process revealed itself in the aftermath, when southern Sudan found itself increasingly deprived of funding, caused by diminutive commercial activity in the area. This was not surprising, bearing in mind that the north controlled all the commercial agreements (Abulemoi 2011:128). During the Machakos talks, the southern representatives required a different approach, and ended up with a solution that would favor two separate economies; a dual banking system supported by two currencies. Like that, the North was able to keep the Central Bank of Sudan (CBOS) which was based on an Islamic banking system, whereas the south established the Bank of Southern Sudan (BOSS) which was based on a Western banking system (CPA 2005:59). This would ensure the basis of a more independent economy in Southern Sudan. To the ordinary Sudanese person, this would be visible through the dual currency system as well, where the North would use the Sudanese dinar, while the South would start using the Sudanese pound (Jooma 2005:13). The purpose of the new currency was to reflect the cultural diversity of Sudan. Since implementing this would take time, the two currencies would circulate in parallel until the pound would be properly incorporated in the money flow. Of course, this would not only serve as a signal effect, but also provide autonomy and greater security for the South.

For the Sudanese in the South, this will have a practical and a symbolic effect, which might prove to be very important with regards to autonomy. However, there are some

premises that must be met. The CPA ensures that the CBOS will have the mandate to carry out monetary policies according to "market-based instruments instead of administrative allocation of credit" (CPA 2005:59). This paragraph is meant to protect the economy from unnecessary political meddling. In post-conflict situations when democratic institutions are especially weak, banking systems can be highly unstable, and very susceptible to external interference. Sudan has never had a stable economic system based on market forces before, and there are widespread corruption in the society as well as the economy, so establishing an accountable system will prove to be a challenge (Abulemoi 2011:129). A fundamental issue with the Sudanese economy is that it is driven by natural resources and not taxation, which is easier to account for. D'Agoôt (2009:122) argues that a powerful kleptocracy has emerged in the center of Sudan that is heavily dependent on revenue from oil. This claim is backed up by numbers from Global witness (2009:28) that shows corruption and serious discrepancies in the oil economy, connected to 26.9 percent of the oil produces in the South between 2005 and 2009. With such a foundation, economic stability and sustainable growth can prove difficult, and the failure to achieve such goals can deteriorate the peace process completely.

4.5 Questions of land ownership and natural resources

Geopolitics should never be underestimated in international relations and especially not in the Sudanese conflict. Land has historically been the most important resource in Sudan. The vast country has been exploited for agriculture and herding of cattle, or resources like water, oil or minerals. In order to gain power, land ownership has been integral. Politicization of land ownership and tenure can be traced back to the colonial administration in 1923 that divided the country into *diar*, or tribal homelands, which still can be seen in modern maps. The ties between a tribe and its *dar* (singular for *diar)* are strong, and have created special power relationships that historically have allowed the more powerful tribes to claim resources within this area and thereby marginalize minor tribes. This was very convenient for the colonial administration, which only needed to maintain relationship with the tribal chiefs of the largest tribes, thus enforcing a hierarchy that favored the powerful within the Sudanese society (Ayoub 2006). Through practice over many decades, this hierarchy has lead to a society with legislation favoring the strong government. The Unregistered Land Act of 1970 has strengthened the rights of the state on behalf of the people, allowing people with close ties to the government to seize land from rural inhabitants. Such practice became a problem in

South Kordofan and the Nuba Mountains in the 1970s, when land was expropriated in order to be used for mechanized farming. Many people had to leave their homes, which in turn became the main reason why people in those areas joined the SPLM/A forces at that time (Pantuliano 2007:1). With regards to the history of unjust land right legislation, this issue would be of importance, especially for the SPLM.

The mediations crystallized quickly into an irreconcilable dichotomy. Representatives from the GoS wanted to divide surface land from subterranean resources as two separate categories. They were willing to concede on the land issues, giving into SPLMs demands for community based rights, contrasting the existing regime. But with that concession, they wanted to gain control over subterranean resources and the revenue from this, leaving a certain percentage of the revenue from this industry to the GoSS (Abulemoi 2011:130). SPLM themselves could not agree to these terms, and did not want to differentiate between land and subterranean land, seeing that both should belong to the local communities. In addition, the existing laws did not properly protect customary land rights, according to the SPLM, so they couldn't agree to the initial concession by the GoS in the first place. These negotiations became too difficult, so the mediators decided to postpone the decision of land ownership and rather share the revenue temporary. To sort this out, they created a National Land Commission (NLC) and a Southern Sudan Land commission (SSLC). These commissions are meant to solve land disputes on communal land areas, based on common law. This might be an adequate solution, but the commissions are formally subject to the National Constitutional Court, so they might be overruled and thereby limited in effect (Abulemoi 2011:131). The second part of the compromise to divert the land issue away from the main negotiations was to solve the issue of the oil sector, but individually. It would be difficult to construe any kind of real peace agreement without consent the issue of oil.

4.6 Duality in the importance of oil – from conflict to development

Oil extraction became a focal point of the Sudanese conflict in 1978, when Chevron made its first discovery. The SPLM/A started to target oil installations for attacks in order to hinder the oil sector in the country to grow. This became a focal strategic aim in the battle against the North; to deprive them of extra funding to maintain the war economy. By 1992 Chevron was forced to withdraw its efforts in the country (Moro 2011:2). South Sudan and

the SPLM long perceived Western companies as working together with the regime in Khartoum and thereby supporting that side in the conflict (Jooma 2005:11).

After 1992 oil became less important, until 1999 when the first exports became a fact. The importance of oil in the Sudanese economy continued to increase steadily, making it a larger part of the conflict dynamic as the industry grew, by 2007, the petroleum sector accounts for almost 20 percent of Sudan's GPD (Appendix D). Oil policy and the oil rich regions have gained special attention throughout the negotiations of the CPA. Why IGAD accentuated the issue of sharing oil revenue as an important part of the CPA seems obvious when looking at the location of oil fields in Sudan. Oil producing areas are scattered along the disputed border line, leaving key issues like demarcation contentious (Appendix C). Comparing the post-CPA situation to the one after the agreement, it is clear that oil, as with other significant sources of revenue is important and should be properly dealt with. As the South struggled with almost no revenue after the agreement, the North gained increased amount of income from newly discovered oil fields as well as most other commercial business ventures. As the oil issue wasn't a part of the root causes, it still became a part of the central dynamic of the conflict.

The CPA had many ambitious goals, which many was imperative to secure peaceful relations between the two parts. With the question of oil, the issue was intricate in itself, the stakes involved substantial potential for future revenue and the resource was bound to the highly unstable, unresolved border areas. Without solving this issue, little would be possible with regards to the rest of the peace process. This is why IGAD separated the oil issue from the ownership issue. However, despite many serious obstacles to resolving the issues of oil rich areas, oil revenue sharing, oil investment policy and many more connected with this, there was one very important aspect of this particular negotiation; oil, a previous source of conflict and financial source of war could now be turned around to something positive; a basis of revenue to promote development in a war torn country.

4.6.1 Dividing the oil sector

Chapter III, Section 3 to 6 regards oil resources and how to share revenue that derives from this. At the first glance it appears that the negotiators from SPLM wrote this with no objections from Khartoum at all, it doesn't resembles the model that the NCP proposed

initially. It is correct to give SPLM credit for this achievement, although the outcome could well have been the only feasible solution. When that is said, there are issues related to the oil issue that remained unresolved. Especially the oil rich regions on the border and the transport of oil out of South Sudan are issues that have been and are going to be contentious to the extent of threatening the relative stability between the two parts. Issues of pipeline fees and disputed ownership to oil fields became the first major issues during the first year after the secession. Problems regarding oil will be discussed later in this chapter.

In order to establish ground rules for the management and development of the petroleum sector, the section starts with guiding principles which will serve as the overarching structure for the following sections. Objectively, these principles are very progressive and good. They emphasize the importance of sustainability in the sector, when it comes to national interest and the public good in general, but also the people that may be affected by the production. According to paragraph 3.1.2 the agreement shall ensure "Empowerment of the appropriate levels of government to develop and manage in consultation with the relevant communities…" (CPA 2005:51). It follows up by establishing that persons that enjoy "rights in land" shall receive compensation if they are affected by the extraction of subterranean natural resources. For local communities positioned in the oil rich regions, this should come as good news; however, that reality does not correspond to written words in the agreement is obvious to the regions of Abyei, South Kordofan, the Blue Nile and the Nuba mountains. The paradox is also very clear in the agreement, whereas the following chapters concern the conflicts in Abyei, Southern Kordofan and the Blue Nile. Further on, Gadkarim (2010:5) notes another contradiction in the agreement; whereas the CPA stipulates a commitment to devolution of power and decentralization of decision making, no local communities were invited to actually setting up national policies or the framework for the regulation and management of the oil sector.

The political apparatus for managing the oil sector was constituted in the CPA as the *National Petroleum Commission* (NPC). In accord with the agreement, this commission had the mandate to perform most functions relating to the oil sector. From the process of formulating public policy and guidelines to monitoring and assess the implementation of these policies. It was meant to develop strategies and programs and negotiate and approve oil contracts. A lot of power was vested in this one commission, with little external regulatory mechanisms. Abulemoi (2011:138) suggest that a reason for this might be the long term perspective; both parties can accept that the NPC deals with the oil sector throughout the

interim period. For the SPLM, this means that they could postpone new leases in the region until after the referendum in order to deal with it on their own afterwards. For the NCP, they avoided that the South got their own commission, and they probably anticipated that the South would be forced to sign contracts during the interim period in order to gain revenue (Abulemoi 2011:139).

4.6.2 Sharing of revenue from existing contracts – dangerous discrepancy

Since 1974, Sudan has already concluded contracts with many oil companies. The details of these contracts have been drawn and negotiated by the GoS. The SPLM/A asked to renegotiate the contracts that were applicable to the South, on the grounds that they were illegal because the land belonged to the local communities. The GoS responded that renegotiations could harm the climate for foreign direct investments (FDI), which would be detrimental for both parts. Through the negotiations, the SPLM/A changed their position and agreed to leave the existing contracts unchanged, as stipulated in section 4.2 (CPA 2005:53). As the existing contracts were deemed valid, extraction from these fields would continue during the interim period in addition to any new ones that the NPC would allow for. Earlier in this chapter, the increase of the oil sector as a component in the GDP was explained, and this meant there was a lot of revenue to share after the CPA. In the Abyei alone, the accumulated revenue between 2005 and 2007 were approximately 1.8 billion USD (Gadkarim 2010:2). Oil revenues accounted for almost 20 percent of the Sudanese GDP in 2007 (Appendix D).

The financial situation for both parts was dire; South Sudan released their first official figures regarding gross domestic product (GDP) in August 2011, where the National Bureau of Statistics (NBS) calculated the numbers for 2010 to be 30 billion Sudanese Pounds, which is equals 13 billion USD (NBS 2011), which is the same as Gabon, a country with 1.5 million inhabitants, compared to South Sudan's 8 million. Little revenue and almost non-existing infrastructure and many social burdens paint the picture of a region with many serious difficulties. A medical writer, Emma Ross, described to the Sudan tribune that Southern Sudan was one of the poorest and most neglected areas on Earth with "possibly the worst health situation in the world" (Ross 2004). The Khartoum regime possesses a more developed society with regards to infrastructure and state services, but there are many negative indications towards a struggling economy in the North as well. Sansculotte-Greenidge & Tsuma (2011:5) point to hyperinflation in the Sudanese dinar, an increasingly active black

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market, price hikes and massive corruption as indicators that the GoS are struggling to maintain their budget. Their 37.8 billion USD foreign debt is the proof of a badly run economic policy that has prevailed since the 1980s. On the expense side, the war has cost the government more than 1 million USD every day for many years (World Vision 1999:1).

Economic hardship can affect the peace process severely. One example of this is the claims that the government in the North is deliberately inflating the value and amount of gold and other precious metals; as the data from Khartoum states that the country produced 36 tons of gold in 2009, other sources claim that the real number was more likely four tons of gold. The claims suggest that the cause of the false report has to be seen in the light of oil sharing in the CPA; while the sharing of oil revenue is stipulated in the agreement with a large quantity designated for Southern Sudan, no such agreements are specified for other resources such as gold. (Sansculotte-Greenidge & Tsuma 20011:6). If oil revenue is camouflaged as revenue from other resources, this would explain the massive discrepancy between oil extraction and revenue reported after the CPA. Global Witness (2009:28) compared the numbers from oil companies with the one given from the government in Khartoum, and found that the governments numbers on oil production were lower than the ones from the companies themselves, whereas the worst cases showed a discrepancy of 26 percent, which would amount to almost 32 million barrels per year. In addition to this highly suspect numbers, the government in Khartoum is adding a three percent management fee as well as pipeline fees, which can be up to eight percent. Altogether, this could have been regarded as a breach of the agreement by the South and compromised the peace process.

On top of the financial aspect, the politics of the infrastructure is a potential source of conflict; D'Agoôt (2009:124) questions the oil infrastructure in the North to be intentionally managed so that after the South secedes, the oil sector would still be dominated by the North. Refineries, pipelines, export terminals, airports, roads, etc. are all diverting the oil away from the Southern areas and through the North. D'Agoôt compares the situation to Russia and Ukraine, where the gas pipes are used as leverage in political disputes. The concern is two-fold; on the one side the North can block access to refineries and all possibilities of export as a mean to political gain, which would leave the South in a difficult position; on the other side the South can try to avoid this situation by investing in their own infrastructure, but they would have to use large amounts of their first earned revenue on that project instead of focusing on development issues. Both situations will cause loss in revenue for both parts,

which could work as an incentive to maintain status quo in both ends, but that is also depending on stability in the North/South-relations.

All in all, the sharing of the petroleum sector is something that will bind North- and South Sudan together for many years. There are many risks involved throughout this process, many which could bring about another period of violence. The notion of oil as a curse is well established throughout history, for many reasons; the tax aspect, which means that revenue comes from one large channel which shadows the tax revenue and in the end creates a distance between the governing elite and the people; then the mono-export aspect, which means that since one sector is representing all of the export thus other export sectors disappear because of high inflation; but for North- and South Sudan, the aspect of sharing the revenue properly will prove to be integral. In addition to all these pitfalls and potential disputes, both parts need to make their oil sectors attractive for foreign investment; Shankleman (2011:15) emphasize that oil exploration companies are looking towards low risk-high return areas first. This means that the governments of Sudan need to prove that it is rational for these companies to invest in these areas, that they will not be in the middle of a war zone, or that they will face international sanctions after going in.

According to the CPA, paragraph 3.1.3, the two parts are to "Give due attention to enabling policy environment for the flow of foreign direct investment by reducing risks associated with uncertainties regarding the outcome of the referendum…" (CPA 2005:51). In principle, this would be assuring for foreign investors, looking at the situation in the country. However, the situation on the ground is far from that straight forward. During the negotiations, the three adjacent areas of Abyei, Southern Kordofan and the Blue Nile, which all are located at the most oil rich border areas between North- and South Sudan needed to be dealt with separately. These highly disputed border areas were postponed, in the sense that Abyei was going to have a separate referendum at the end of the interim period and that the Southern Kordofan/Blue Nile states and the Nuba Mountains was going to reconstitute a previous Southern Kordofan province (Abulemoi 2011:149). In the post-CPA period, these areas are still the most contentious and violence ridden areas, most prone to compromise the ceasefire. The contradiction between the FDI friendly formulations in the CPA and the reality on the ground remains a dangerous paradox.

4.7 The Abyei conflict

Chapter IV of the CPA is dedicated to the area of Abyei alone. The two parts regards this area as "a bridge between the north and the south, linking the people of Sudan" (CPA 2005:65). According to the agreement, Abyei belongs to nine of the Ngok Dinka chiefdoms that were transferred to Kordofan in 1905, while the nomadic people that use the land will retain the right to graze cattle and to occupy the territory. As mentioned above, the two parts did not agree on the status of Abyei, hence this area was given special administrative status, which meant that during the interim period, they would be subject to a set of rules laid out in the agreement. They would be citizens of both Western Kordofan in the North and Bahr el Ghazal in the South. The administration would be a local Abyei Executive Council, elected by the residents. Oil revenue from the region were to be divided by specific measures; 50 percent to the GoS, 42 percent to the GoSS, two percent to the Bahr el Ghazal region, two percent to the Western Kordofan region, two percent to the Ngok Dinka chiefdoms and two percent to the nomadic Misseriya people of the region (CPA 2005:67). This constellation would be valid until the end of the interim period, when the residents of Abyei were to have a simultaneous referendum to the Southern Sudan referendum, deciding where they would belong, irrespective of the results of the Southern referendum.

By January 2011, the referendum in Abyei was not held, although the South Sudan referendum did go through as planned. The reason behind this was that the North and the South did not manage to agree on who that should be eligible to vote. In the South, the position was that only the permanently based Ngok Dinka should be eligible in the vote (Garang 2011). The North opposed this view, because the Ngok Dinka people are a sub-group of the Dinka ethnicity, which is the largest and most geographically extensive group in Southern Sudan. By default, this means that if they would be the only voters, Abyei would most likely become a part of South Sudan. The issue at hand is that the Khartoum government wants to make the nomadic Misseriya people eligible to vote in Abyei as well; they are considered Arab and also allied to the North. Some of the Misseriya people have settled in the region permanently and many live in the town of Abyei (HRW 2008:12).

The disagreement on this issue is not capricious or random. Douglas H. Johnson, a specialist in Sudanese history, suggest that these delays have to be seen in a larger context, because the NCP have consistently used various delaying tactics throughout the CPA negotiations, and this is what they are doing in Abyei as well (Johnson 2011:4). Such delay

tactics can be divided in two: Political and military. At the political level, the method is to delay and postpone processes by refusing to cooperate; in December 2009, the Abyei Referendum Act was passed by the National Assembly. The purpose of this act was to give the Abyei Referendum Commission which was constituted in the CPA Chapter IV, section 8, the authority to decide who was eligible to vote in the Abyei referendum (AARA 2009:4). However, this commission never became constituted, because the National Assembly, which have a majority of the NCP refused to accept the candidates that the SPLM appointed to the head of the commission (Johnson 2011:6). The NCP have also acted inconsistently regarding Abyei; previously the party's position was to restrict the definition of the Abyei territory as much as possible. They also set a precedent in the Southern Referendum Act where seasonal nomads were not given voting rights (SSRA 2010:14), when the disagreement over the same issue in Abyei, the NCP took the opposite stance. Johnson (2011:3) also points out the timing of the abrupt violence that occurred in Abyei January and February 2011. Attacks took place right in the middle of the implementation of an agreement between the Ngok Dinka and the Misseriya, which caused a disruption in the process. Especially conspicuous is the method of these attacks; it has not been farmers fighting over land, which would be considered usual, the firearms was heavy, and the attacks were carried out by uniformed raiders with helicopters that evacuated wounded soldiers. Not only did this halt the reconciliation process, but it also led to many people fleeing the area (ERSS 2011). Johnson (2011:4) sees this fighting as the "most serious sign yet that, despite public pronouncements so enthusiastically hailed by the international community, Khartoum is not committed to a full implementation of the final stages of the CPA".

4.7.1 Demarcation of geographic boundaries

According to Chapter IV, section 5 in the CPA, the Presidency was to establish an Abyei Boundaries Commission (ABC) that had the mandate to define and demarcate the Abyei area. This commission was put together by experts, representatives of the local communities and the local administration (CPA 2005:68). Objectively, this appears to be a minor issue, which should be easy to get through by getting advice from experts on the area and agreeing on following their suggestions as stipulated in the agreement. In retrospect, this rather small part of the peace agreement turned out to become one of the most volatile parts and the most demanding with regards to the implementation of the CPA in its entirety. As

anticipated, the groundwork did not take long, after three months the ABC could deliver its decision, where they defined the scope of the Abyei region to amongst other things contain two major oil fields (ABCR 2005:21). The independent experts had conducted thorough investigations, to discover the validity of the claims made by both the GoS and the SPLM. They found could not find any maps of written evidence that the Ngok Dinka chiefdoms had the territory around 1905, but they concluded that the GoS claim that the Ngok Dinka all resided south of the Bahr El-Arab river was false and was mainly based on a report from a British official who mistook the Ragaba ez-Zarga for the Bahr El-Arab (Abulemoi 2011:155). When the ABC presented their results, both the Messiriya people and President al-Bashir rejected the report on the grounds that the commission had exceeded its mandate, with the demand that its significance should be relegated from report to recommendation. The problem was that the CPA was clear on the binding element of the ABCs decision, there wasn't any mechanism built in where any part could appeal. Thus, the GoS decided to refuse to accept the decision. Short after, both parties began to build up their military around the Abyei (Abulemoi 2011:156). As noted earlier, violence broke out, many people were killed and thousands of people were forced to flee. With little option left for both sides besides a detrimental war which neither seemed interested in, the parties finally agreed to resolve this dispute by arbitration.

Arbitration was appealing to the two parties for a number of reasons; first the decision makers were intended to be impartial and independent; second, the flexibility of the process would meet their own requirements and schedule; further on, arbitration is regarded as a long-established dispute resolution process that could provide certainty to the parties that they both received a fair and proper hearing and a decision founded on legal principles. For this purpose, the parties chose the Permanent Court of Arbitration (PCoA) in The Hague (Miles & Mallett 2010:318). A tribunal was constituted which was required to decide upon the issue using applicable law, whereas they initiated by establishing a hierarchy among the sources of applicable law; the CPA standing as the first source of law, followed by the Interim National Constitution, before the general principles of law would apply. Beforehand, the GoS had accused the ABC of making the decision *ex aequo et bono*, which basically is saying that they chose the end result because they saw it to be fair and equitable, and not based on sound evidence, this is a practice in arbitration where both parties need to consent to the practice if used (Miles and Mallett 2010:321). According to the PCA, they did not regard that they had the mandate to perform such practice, but they would base its decision on these principles: a)

in line with SPLM, agreeing that the appropriate standard of review was to consider if the ABSs decision was reasonable of its mandate; b) a determination that ABCs interpretation of its mandate was not unreasonable; and c) it determined that the mandate was not exceeded by the procedures (Miles & Mallett 2010:322). Three months of arbitration and processing later, the decision was made by the PCA. In essence, the region was reduced in size, and the large Heglig oilfield was put outside the borders, this was accepted by both parties and celebrated as a victory; UN Special Envoy to Sudan Asraf Qazi stated that "I do believe this has been a win-win decision for both sides" (BBC 2009).

In essence, two very important questions stood in the way of a successful implementation of the CPA in the Abyei region; who are the inhabitants; and where does the border line go? After the end of the interim period, only one of these questions was answered. Abulemoi (2011:156) claims that one reason why the ABC failed in its original approach was that it let the NCP and the SPLM/A represent the local communities, much emphasis was but on oil fields, many efforts in the area was postponed, and in the end the lack of civil administration in Abyei left a large lack in education, sanitation and health services in the area, in addition to making it a very unsecure place to live.

4.8 Southern Kordofan and the Blue Nile States

According to Abulemoi (2011:160), the people of Southern Kordofan in the Nuba Mountains and in the state of Blue Nile were not fighting for an independent state, but rather accepted to be a part of a new Sudan based on equality, democracy, respect of human rights and fundamental freedoms. According to the CPA, this looks like a fair assessment; the two parties were to carry out a popular consultation in order to carry out the will of the people of the two states Southern Kordofan and the Blue Nile (CPA 2005:74). On paper, the agreement looks to have a positive connotation for these areas; it provides power- and wealth sharing to some extent and special security reforms. However, the reality for these states is that they find themselves in an intricate situation, which might leave them in a very difficult position in the long run.

While the future of Sudan was decided, Southern Kordofan should have been an important piece in these negotiations. Especially in the Nuba Mountains, many black African ethnic groups reside, that claim to have more in common with the South, whereas many also

fought alongside SPLA in the wars (Martell 2011). In addition, the Nuba people fought their own war, to preserve indigenous cultures, languages and religion. Despite their effort in the South as well as their own struggle for autonomy, they did not get to have any representatives from their state in the SPLMs lead negotiating team, leaving them an easier disposable piece in a negotiation (Flint 2011:8). As a result, the states of Southern Kordofan and Blue Nile never got the opportunity to hold their own referendums, but rather the vague term 'popular consultations', which was understood as talks that should reveal what the people wanted for the future. Even though these talks were an abysmal compromise from the start, it worsened when the governor of Southern Kordofan Ahmed Haroun suspended the process. Haroun is at the time wanted by the International Criminal Court (ICC) for war crime charges regarding violence in Darfur (Martell 2011).

The border line states are so intricately connected with both the North and the South, hence the future of these areas will be integral for the peace process in its entirety. That is why the situation in especially the Nuba Mountains should be regarded as a high risk area for future violent outbursts. A general assumption in this study is that local democracy and autonomy can help stabilize in a peace process; in that regard, the Abyei situation may look worse because of the current situation, but the end result might be more prosperous with regards to the peace agreement. Many people in the Southern Kordofan and the Blue Nile which all want to be a part of South Sudan will end up in a limbo where they are neglected or suppressed by both the North and the South, creating a dangerous element to an already unstable peace.

4.9 Security arrangements

With the intention of preserving the relative peace between the two sides, the final chapter in the CPA is dedicated to Security Arrangements. *Chapter VI* deals with the future structure of the two armed forces at both sides and how the ceasefire shall continue. As discussed earlier, the security arrangement after the Addis Ababa Agreement caused many problems for the South. In 1972, the agreement constituted a new army consisting of soldiers from both sides; this unity army in effect absorbed 6000 of the Anyanya forces, while another 6000 soldiers was stationed as police, or in prisons or as other civil servants. Senior officers were transferred to the North, which left the South in lack of higher ranking officers. (Okumu & Ikelegbe 2010:269). This faulty structure was one of the main causes of the success of the

SPLA as a rebel movement, and the leadership learned from the mistakes of the Anyanya, which can be seen in paragraph 1.b. "…the Parties agree that the two forces, the SAF and the SPLA shall remain separate during the Interim Period" (CPA 2005:87). This constellation ensured that the South was able to preserve their leverage towards the North and thus making the possibility of secession viable still. The new military structure was aimed at creating stability between two forces, not by disentangling one of them; this was a great improvement from the agreement. In line with this, the two parties agreed to a proportional downsizing of the armies on both sides. The ceasefire was agreed to be stipulated under the supervision of international experts and IGAD mediators, as well as monitored by international actors like the UNMIS (CPA 2005:87).

Although the security arrangement stipulated in the CPA should be regarded as a better solution than the arrangement from the Addis Ababa Agreement, Khartoum managed to push through one demand which seems like a compromise between the last arrangement and the will of the SPLM; namely the Joint Integrated Units (JIU). In the agreement, these units were to constitute a "nucleus of a post referendum army of Sudan, should the result of the referendum confirm unity" (CPA 2005:88). However, this nucleus became a mostly non-functional group, lacking in equipment and support. According to Rolandsen (2009:14) the JIUs has started to become a political arena and thus a security liability in itself. It serves as proof that an entire integration of SAF and SPLM would be a failed project, as the lesson was learned in 1972. Much of the problem with these units were that they weren't put together as in the agreement, they were basically half SPLA forces put together with other armed forces that fought alongside SAF against the South previously, but were now considered illegal as independent forces in the South (Verjee 2011:7). In essence, it was a temporary solution for Khartoum to deal with former allies which now were unwanted.

Three specific incidents indicate serious problem with the chain of command in the JIU, and serves as examples of the previous critique. Two of these incidents happened in Malakal, a South Sudan city on the north-eastern border to the Sudan. Both of these incidents were connected to a former Southern Sudan Defense Force (SSDF) commander Major General Tanginya. In both instances, the fighting was internal in the JIU and crystallized itself to the previous alliances, between some SAF and some SPLA forces, dividing the town accordingly (Verjee 2011:8). The last instance happened in Abyei, and the actions of JIU in this instance can really emphasize the core of the problem with a joint army. While fighting broke out between non-JIU soldiers in May 2008 in the area of Abyei, the mandate of the JIU

would be to break up the clash and protect the Abyei. On the contrary, the Abyei JIU disintegrated swiftly and rejoined their former allies on their respective side (Verjee 2011:9).

Since the JIU was to be rejoining their previous allies in the case of secession, another problem arrived. Since the SPLA forces are loyal to the South, this would not be problematic, but for the former SAF units, which mostly are composed of wartime local militia and illegal as SAF fighters, a void would emerge which needed to be filled (Sedra 2011:10). One rather temporary solution has been to continue the JIU model in certain areas; since the end of the interim period, a new and enforced JIU was placed in Abyei as a part of the Kadugli Agreement (Verjee 2011:11). Rolandsen (2009:16) suggest that a general disarmament of the public could be a solution to decrease violence and transfer the monopoly of violence to the state actors, which in turn could make it possible to disarm the JIU as well. However, this solution seems less feasible, because civilians play a role in the defense of South Sudan in case of a future war.

4.10 External factors affecting the peace process

As with most other large conflicts, the peace process in Sudan is not isolated from the world, there are many actors, stakeholders, international organizations and states that interfere. Some convey a message of peace by their interference, some have own agendas, like access to oil fields or religious missions, and some get mixed up by the proximity to the conflict itself. This section will aim to identify the most important actors that have played a part in changing the dynamic of the peace process.

4.10.1 A regional context

Although regional and international involvement both are *external* interference, there is a significant difference that is important to emphasize; interdependence. Neighboring states are not necessarily interfering by own choice, but because of the close proximity or geopolitical necessity. Regional actors are most likely not only interfering, but also being affected themselves, or trying not to. The Sudan was the largest country in Africa, and thus they have many neighbors. Each of the border states have their own interest at stake which

they will act to preserve, following a history in the region of meddling, proxy wars and cross-border entanglement.

4.10.2 The Arab spring – how would it influence Sudan?

The 'Arab spring', which was a series of revolts and revolutions that started in Tunisia, 18 December 2010, have changed the whole Arab world. Starting with the Jasmine Revolution in Tunisia, where the government was overthrown, word quickly spread throughout the region and people in other countries took to the streets. It is not the aim of this study to speculate in the dynamics of these happenings, but to recognize that they happened. In Egypt, the Mubarak regime came to an end after just 18 days of protests (Peterson 2011). The relations between Sudan and Egypt go far back, as described in chapter two of this study. Egyptian influence has been intricate and long withstanding, especially for the North Sudan, which is of utmost strategic importance for Egypt. The position from Cairo when it came to the CPA has been an adamant opposition to the South's desire to secede; in fact they have put pressure on al-Bashir to spend more in the South to make unity attractive. Fearing that Southern Sudan would become unsustainable in the long run as an independent state which might open the door to extremists, Egypt became a key actor in the peace process, promoting a peaceful unified solution (ICG 2010:9,11). The question is how the new government will act towards the Sudanese peace process, because they cannot ignore it. Not only because of the close proximity, but Sudan controls the water that flows through the Nile, the lifeblood of Egypt. It is imperative that the new governments in Egypt and South Sudan chose to abide by the 1959 Nile Agreement, which deals with the geopolitics of the river (Salman 2011:157).

Another regional power that has previously been involved in the Sudan conflict is Libya. The policy of Muammar Qaddafi has been to weaken the regime in Khartoum, by support the SPLA with finances and military support, as far back as the 1980s. Although, this seems like a proxy war approach, whereas the primary goal of Libya is to establish an autonomous Darfur region. Qaddafi has conveyed an ambiguous message regarding the outcome of the CPA, both for and against secession, but he did claim that Libya would be the only Arab country to support South Sudan in independence (ICG 2010:16). In February 2011 civil unrest exacerbated in Libya, causing a violent clash between the government and a large and eclectic group mass of oppositional demonstrators. The Gaddafi regime fell, with the

support from UN and NATO, and was taken over by a transitional government lead by Mustafa Abdel-Jalil (Cooper & MacFarquhar 2011).

It will take time before the consequences of the Arab spring is final; there are still many uprisings and unstable situations in many countries. It is without doubt that the region has changed; this change will in turn have ripple effects all over the world and in the nearby area. The future of both Sudan and South Sudan will be affected by these changes, but it is too early to pinpoint exactly what they will be. One indication is that the international community has changed their policy after the Arab spring; whereas the US, Europe, China and Russia often regarded state sovereignty as internal matters; they have now abandoned dictators like Mubarak, Gaddafi and to some extent Assad in Syria (Prendergast 2011:2). This development may concern President al-Bashir, which is wanted by the ICC for accusations of genocide, crimes against humanity and war crimes in Darfur (ICC 2008). When people demonstrated in Khartoum, much like the other Arab spring demonstrations, the regime met the people with brutal measures, according to Prendergast (2011:1) also rape of female protestors. For future speculations, one could ask if the worst enemy to the regime in Khartoum could be hidden in its own population and not in the South.

4.10.3 Uganda and the LRA

As a neighbor to South Sudan, Uganda and President Yoweri Museveni has been one of the greatest supports during the war. They supported SPLA diplomatically, but also through direct military and financial support. The Ugandan army and SPLA formed close bonds through this alliance. However, this support was not appreciated in Khartoum, which retaliated against Uganda by providing weapons, finances, military intelligence and training to the Lord's Resistance Army (LRA), which moves around in Northern Uganda, close to the South Sudanese border (ICG 2010:5). Even though the government in Uganda is a close ally to South Sudan, the border is still a problematic area; there have been many reports of LRA raiding villages over the border (Amos 2011). To maintain two borders of that length and intensity is very demanding and almost impossible for a country that many believe doesn't have the capacity to sustain itself.

4.10.4 A new regional economic area – Kenya and Ethiopia

There are close ties between Kenya and Sudan. The war put an extra burden on Kenya, which opened its borders to let almost 100 000 refugees through at its worst. It was also the leadership from President Daniel Arap Moi and Lieutenant-General Lazarus Sumbeiywo that aided to bring the two parties to the negotiations in 2002 (ICG 2010:1). President Salva Kiir spoke of the peace talks and the process as Kenya's baby and contributed a large part of their success to their neighbor when he visited Nairobi after the referendum in 2011. He spoke of cooperation and development and joint oil ventures (Sudan Tribune 2011). These strong economic ties can ultimately prove to a source for a broader economic base in the new country, already Kenyans are active in South Sudan's private sector, working in construction, air transport, insurance and with infrastructure (ICG 2010:2).

Ethiopia has also strong ties to the Sudan, in 1983, the SPLA established operations over their borders and was accommodated by the government there, providing bases, training, political direction and weapons. Although Ethiopia largely has supported SPLA throughout the conflict, and Khartoum has supported Eritrean and Tigrayan rebels, today the relations are good with both parts; the Ethiopian Foreign Minister Seyoum Mesfin opened a large embassy in Khartoum, which follows a prosperous economic cooperation. Ethiopia's regional stature makes them an attractive partner for both sides. In addition, Addis Ababa has opened up for much commerce through extensive trade agreements with Juba.

4.10.5 The African Union

Incentives from the local surrounding countries can bring about positive developments. This thesis will also argue that AUs involvement in assisting with implementation of the CPA in addition to mediating post-referendum issues will count as an important support when it comes to achieving stability and peace between the two countries. The African Union High-Level Implementation Panel (AUHIP), which is led by Thabo Mbeki, the former President of South Africa, has had extensive discussions when it comes to economic issues like oil and currency; security issues like oversight of borders; political issues like disputed areas at the borders; as well as legal issues (African Union 2012:1-4). On 27 September 2012, the two parties signed many agreements relating to these issues, coming closer to the culmination of the two years ongoing negotiations led by AUHIP (ISS 2012).

(Hsiao 2012:11) claims that the negotiators from South Sudan have argued that the facilitation of the talks has had a bias towards Sudan, and allowed them to maintain extreme positions. Despite this criticism, many important issues have been agreed upon, within the groups of issues mentioned above. Everyone except for the border areas; these still remains disputed issues, and talks are intensified while this thesis is written, after the AU gave an ultimatum to the two parties, to reach an agreement on how they are going to proceed with the negotiations on the five border areas within two weeks (The Africa Report 2012). An important argument in this thesis is that the issue of these border areas is going to be crucial for the development of peace between- and within the two countries; if people in these areas are further marginalized, it has the potential to create a new conflict with new actors.

4.10.6 International context

Throughout this study, several international actors have already been emphasized as integral in the peace process. US foreign policy after 11 September 2001; the effort put down in the work with the CPA by Italy, Netherlands, Norway, the UK and the US; international organizations like the UN, the AU and the EU; NGOs like red cross, MSF, Amnesty, Global Witness, International Crisis Group and many more. A variety of international actors are involved in this process, some stake holders, others voluntarily involved.

Without going into detail on each of the actors, it is possible to identify some key trends. At the continental level, a tremendous difference between 1972 and 2005 was that during the 1990s, the Organization of African Unity changed into the African Union; with this change followed a change in attitude towards state sovereignty and intervention. 'Non-interference' and 'sovereign equality of states' were important principles reflected in the charter of OAU. This had two key implications; first of all, this kept the organization from being able to interfere with any matters that could be considered as internal affairs. Even the most horrible violations of human rights within states were off jurisdiction for OAU. The second implication of the non-interference policy was the acceptance for a culture of impunity in some countries on the continent. In effect, this lead to situations where OAU became powerless observers to several atrocities committed in or by member states (Gomes 2008:117). The African community undertook significant changes during the 1990s and towards the millennium. A new set of leaders wanted to demonstrate political will and ability

to resolve conflicts in more peaceful manners than before. By the start of July 2002, the new framework for such political will was constituted in the new organization, The African Union. The new peace and security regime was mandated fundamentally different from the previous organization. Within this mandate, there was articulated a will for a common defence policy and combat of international terrorism (Powell 2005:10). The former principle of state sovereignty was now discarded, as the new principle stated: "the right of the Union to intervene in a Member State pursuant to a decision by the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity" (Gomes 2008: 124).

This change was spurred by a change in norms in the international community; more international intervention was accepted, after human atrocities in Rwanda and Sbrenica that the international community and state leaders could not accept any longer. Sudan has been in the spotlight regarding atrocities committed in Darfur, the civil war, the accusation of al-Bashir to the ICC and the Comprehensive Peace Agreement. Two UN peace keeping forces are stationed here, both in Darfur (UNAMID) and in South Sudan (UNMISS) and much diplomatic pressure are focused, from both super powers like the US, or neighbouring states. In essence, much money, effort and prestige are put into the peace process, but this will not last for eternity. At one point, the focus will disappear, and that is when we know if the peace was sustainable.

International pressure and intervention can still play an integral role in keeping the level of conflict low and to encourage trade and development with the two countries. However, reaching consensus on how to resolve issues can lead to slow progress on this area. One example is the indictment of Omar al-Bashir by the International Criminal Court (ICC), and how the AU is divided on making an actual arrest. Although the AU stance on this issue officially is that shall not cooperate with the ICC in arresting President al-Bashir, some member states like South Africa and Botswana have warned that they will make an arrest if he enter their state borders (Sudan tribune 2010). In addition to this, Malawi stated that it wouldn't host an AU summit because President al-Bashir was invited (Gondwe & Sterling 2012). This highlights how the intricacy of international politics in itself contributes to slowing down or hindering effective resolutions.

4.11 Conclusion

This study has previously argued that the conflict between North- and South Sudan need to be seen in its entire context, even after the secession of South Sudan. Secession should be regarded as a fragment of a process of peace, which might prove to be positive, but also carries the potential of failure and regression. The founder of the CPA, John Garang knew this and fought for a unified Sudan himself. But no matter how one look at it, the CPA stands for a grand progression in the peace process, especially for South Sudan. A great amount of people have been born into the war and never experienced peace; they have now achieved this objective, but they might not be prepared for the immense project of building a new state from scratch. Before, Southern Sudan needed soldiers, now South Sudan need teachers, carpenters, plumbers, farmers and entrepreneurs. The obstacles seem immense; just achieving adequate development with the goal of reaching basic standard of living for the population is going to be a challenge for the state that has been deemed as pre-failed. An even greater challenge is to detach the South from the North. Even with a formal division of states, the area is so complex and interconnected both socially and economically. This chapter has assessed both improvements from the previous attempt for peace, but more importantly the many issues that connect the North and the South so intricately that the conflict seems far from over, despite the secession.

The Comprehensive Peace Agreement has addressed the sources of the conflict, in a much more thorough manner than the Addis Ababa Agreement, however, the sources of conflict that is most contentious have not been solved. Despite the fact that a new institutionalized framework was stipulated that would give more autonomy to the south, the reality was a reverse effect; more power got centralized around Khartoum (ICG 2011b:i). This is a core source of conflict that failed to be resolved, despite a detailed framework to deal with it. Sharing of wealth is a similar issue; this is of utmost importance for South Sudan, in order to develop new state institutions and an adequate security regime. However this process has also been controlled massively from the North, in addition to be hampered by widespread corruption (Abulemoi 2011:129). A third source of conflict that has emerged after the failure of the Addis Ababa Agreement is the issue of oil and sharing revenues from production. On the paper, this issue has been dealt with, but in reality there are many unresolved issues connected with this; meddling with revenue numbers from the North; unresolved land issues in the oil rich regions; but also the more important issue of geopolitics – since the North control the production sector, from the refineries, pipelines, export terminals, roads, etc. the

South will still be closely linked to the regime in Khartoum in the foreseeable future. A hierarchy where the central government in the North dominates the entire region in the South still prevails.

A specific emphasis should be put on Abyei and the other border areas in this regard; while remaining unresolved and contentious, they stand as a monument of the dangers that still prevails between the two parts. With the secession, these areas are left as even smaller minorities and the definite losers in the post-CPA era. With the worst case scenarios that were described in chapter three, these areas are arguably the most significant sources for a potential violent conflict.

Hopefully, the regional and international influence to the Sudanese states will prove to be stabilizing and positive. Some elements are potentially destabilizing, like the presence of the LRA within South Sudan. However, a seemingly stable region could provide prospects of future trade and economic growth.

5. Conclusion

Based on the findings in this study, this final chapter will draw conclusions in order to answer the initial two main research questions. By reflecting on the results of this study this will consequently raise new questions that may serve as recommendation for future studies. The aim of this thesis has been to provide a critical analysis of the peace process with the secession of South Sudan being the focal point of attention, and by doing this, contributing to a new perspective on secession as a means of liberation from oppression.

1. To what extent does secession change the power sharing relation between North Sudan and South Sudan?

In order to understand the change in power sharing relations, this thesis has provided a historical background with the emphasis on root causes and other sources, in order to show how the Sudanese society developed and what the causes of today's conflicts stem from. The regime in Khartoum has shown through many years that they want to impose the Arab culture and religion on the entire country and all its citizens (Sharkey 2008:21). Only through violent opposition did the various groups in Sudan resist this process of Arabization. In turn, this created a divided society with informal power relations between the central government and the rebel groups.

By using a holistic approach to theory and the peace process, the aim was to show that secession is not a shortcut to solving sources of conflict and that the power relations between North and South Sudan will prevail despite the status as a new state that the South achieved.

The theoretical discussion over secession suggests that there are no consensus on the morality and legitimacy of secession. Whereas some regards secession as unproblematic as long as the new state is able to perform the basic functions that is demanded of it, others like Harry Beran (Pavković & Radan 2007:202) argues that it is not up to a minority to decide such issues. The divergence amongst scholars is well reflected in international law as well; on the one hand the principle of *sovereignty* is regarded highly, whereas in terms of secession this principle conflicts with the principle of self-determination of people that stipulates that everyone has the right to his or hers own nation-state.

One finding this study has shown is that secession will create new dynamics of power sharing within the respective states. As Collier and Hoeffler (2002:26) argues, secession

creates even more imbalance in ethnic and religious fractioned states, as shown in the example of Yugoslavia after Slovenia and Croatia seceded; this caused the Serb ethnicity and culture to become significantly more dominant. This example is relatable to the areas of Darfur, Southern Kordofan, the Nuba Mountains and the Blue Nile state. All these areas contain large groups of non-Arab opposition groups that became further marginalized after South Sudan seceded.

Another finding is that the secession created a rise in internal violence in South Sudan (Rolandsen 2010:1). A growing worry throughout the country is that the government will not be able to create security for its citizens. Many armed groups, a large army of soldiers without civil training or education and an increased threat on the borders of North Sudan but also Northern Uganda where the LRA continues to raid villages is indications of a faulty security regime with many challenges. Any internal conflict or destabilizing factor in South Sudan will strengthen the relative power to the North.

Many issues can prove that both states will continue to be intricately linked together despite the secession. Through the thorough assessment of the Comprehensive Peace Agreement, these issues were revealed and discussed.

2a. Did the Comprehensive Peace Agreement address the sources of conflict?

2b. What sources of conflict remain unresolved after the Comprehensive Peace Agreement

The CPA marks a monumental improvement in the peace process. Compared to the Addis Ababa Agreement, it was thorough, it dealt with a broader set of issues and the process was given more time. By discussing the agreement chapter by chapter, this study has identified a range of important sources of conflict that was addressed. However, the sources of conflict that are most contentious have not been solved. It is evident that much of the formulations in the agreement were not attempted to uphold. US Special Envoy to the Sudan, Senator Danforth described a culture of making agreements but not implementing them: "The history of Sudan is littered with dozens of proposals and agreements to end the fighting. These agreements all have one thing in common: none was implemented, and none brought Sudan closer to peace" (Danforth 2002:4). The concern that the implementation will fail is amplified by the fact that many of the important issues like demarcation and sharing of wealth

never was mediated. Post-secession violence in the border areas can be seen in correlation with this negligence, especially the violent clashes around the Heglig oil field that both parties claimed.

Chapter II of the CPA addresses the issue of institution and power-sharing. The purpose was to reflect the real power relations in Sudan, provide a feasible power sharing between the North and the South and to spread participation throughout the country. However, the implementation of these policies were abysmal; ICG (2011b:i) reported that the reality was a reverse effect of power sharing and democracy, more power got centralized around Khartoum. Chapter III of the CPA addresses the principles of wealth sharing in Sudan. This was an important part for South Sudan, as the new distribution of revenue was supposedly aimed to develop new state institutions and an adequate security regime. But instead of providing these funds appropriately, the North has been accused of altering their official numbers in order to hide oil revenue amongst others (Global Witness 2009:28).

The politics of oil has become an important source of the Sudanese conflict. In addition to the financial aspect, the oil production sector is a good example of how the South is continually linked to the North, in this instance because of proximity and geography. The infrastructure regarding oil production is designed to favor the North; refineries, pipelines, export terminals, airports, roads and such are all diverting oil away from the southern areas towards the North. D'Agoôt (2009:124) argues that this infrastructural issue can be highly politicized, with the comparison of Russia and Ukraine, where the gas pipes are used as leverage in political disputes.

All in all, there are a lot of unresolved issues that prevails after the CPA interim period was over. Many indications point to a more complex and challenging situation in the near future. The regrouping of a new opposition in the northern regime can be seen in direct correlation with the secession, after many groups were either neglected in the peace process or ended on the wrong side of the border. This process created new minorities and new problems, possibly with the greatest potential of conflict. After the secession, the further marginalization of these groups has the potential of bringing about violent conflict. With Rwanda and Sbrenica in mind, the final recommendation for further study has to focus on the areas of Darfur, Abyei, Southern Kordofan, the Nuba Mountains and the Blue Nile state. These areas host armed militia which the CPA failed to provide any security for, leaving them abandoned from their former allies and weaker in relation to the government. A new

opposition party, SPLM-North emerged in the Southern Kordofan and Blue Nile states after the secession, consisting of soldiers from the SPLA together with further marginalized groups in the north. For these people, the secession created less security, more vulnerability and more resentment.

The end of the first civil war pushed many southerners to the borderlands; training to fight back, this is how the SPLM/A first were founded. In order to avoid further conflict in this area, marginalized groups need security and development. As this has not been provided for so many groups both in the North and South, there are few indications that this area has progressed significantly since the end of the first civil war when it comes to reaching peace beyond the secession.

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Appendix A

Map of ethnic composition in Sudan

Source: Dr. M. Isady

http://gulf2000.columbia.edu/maps.shtml
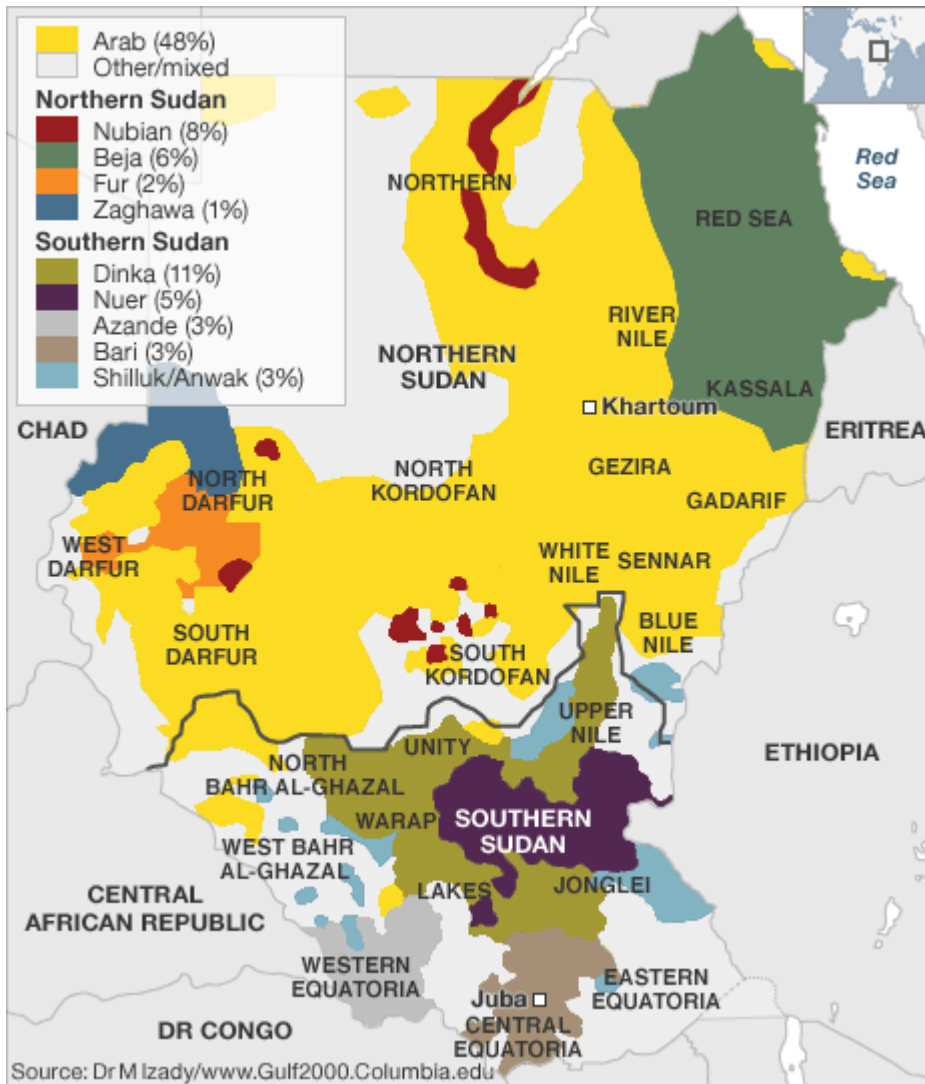
Appendix B

Satellite map of Sudan

Source: NASA/BBC

http://news.bbc.co.uk/nol/shared/spl/hi/world/10/sudan/img/sud_sat.gif

Appendix C
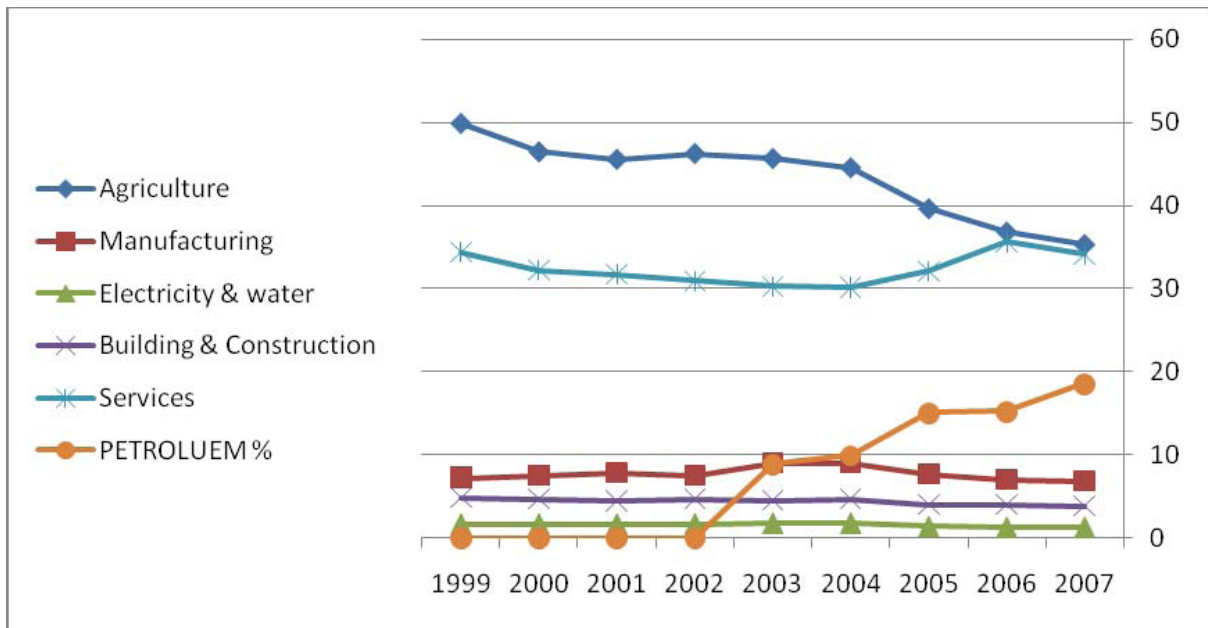
Map of oil fields and pipelines in Sudan

Source: Drilling Info International / BBC

http://www.bbc.co.uk/nol/shared/spl/hi/world/10/sudan/img/sud_oil.gif

Appendix D

The Composition of the Sudanese GDP – In Percentage (1999-2007)

100

(Source: Gadkarim 2010:7)