

# **NUBA MOUNTAINS STUDIES WORKING PAPER 1**

## **The genesis of recurring wars in Sudan: rethinking the violent conflicts in the Nuba Mountains / South Kordofan**

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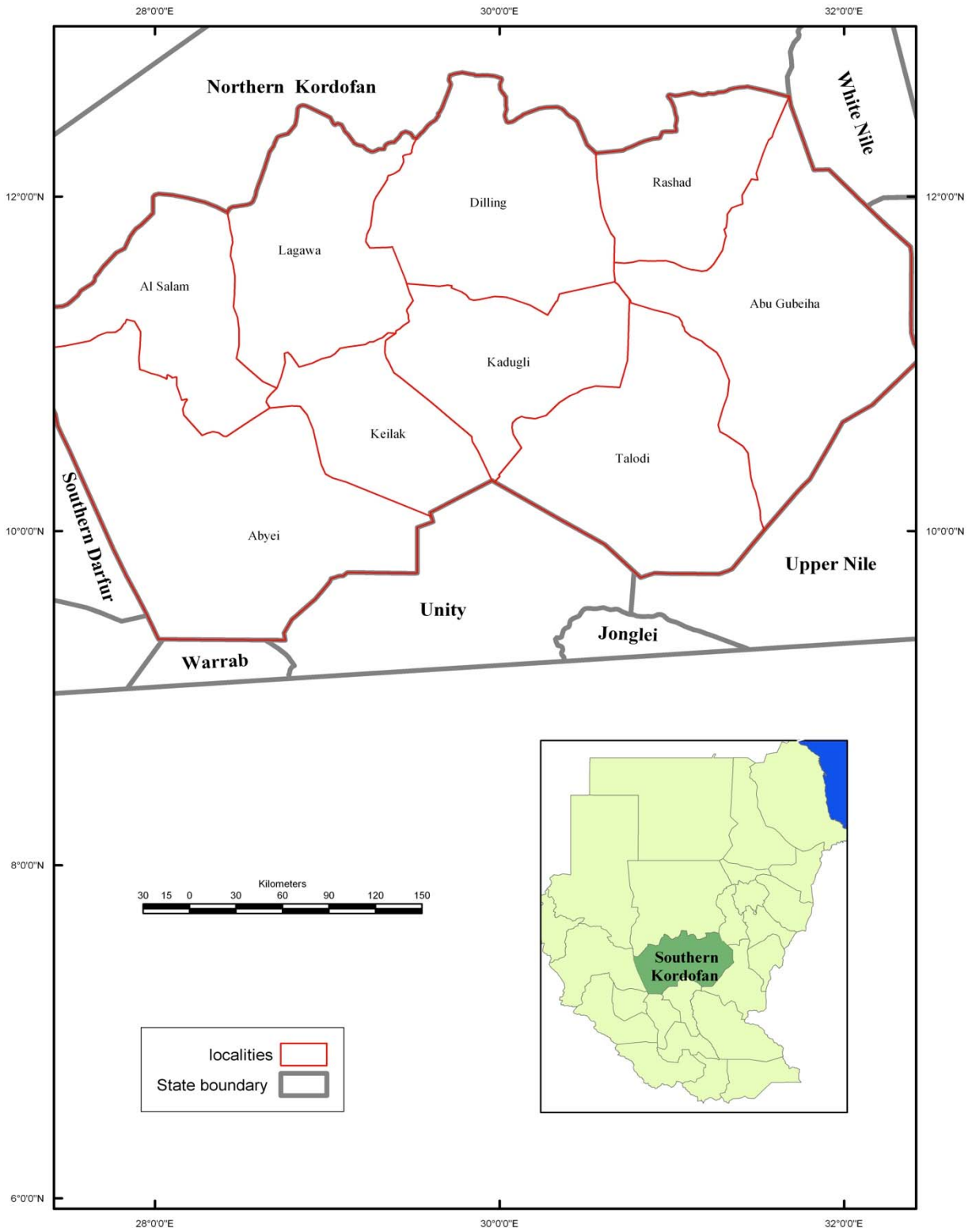
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# South Kordofan State in the former united Sudan



Source: Survey department, Sudan 2009

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## Acronyms

AEC	Assessment & Evaluation Commission
AFP	Agence France-Presse
AI	Amnesty International
CFA	Ceasefire Agreement
CPA	Comprehensive Peace Agreement
GoNU	Government of National Unity
GoS	Government of Sudan
GoSS	Government of South Sudan
HAC	Humanitarian Aid Commission
HRW	Human Rights Watch
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
INGO	International Non-Governmental Organization
JIU	Joint Integrated Units
JMC	Joint Military Commission
NCP	National Congress Party
NEC	National Election Commission
NGO	Non-Governmental Organization
NIDAA	Sudanese Development Call Organization (Arabic)
NISS	National Intelligence and Security Service
NMGU	Nuba Mountains General Union
NRRDO	Nuba Relief, Rehabilitation and Development Organization
OCHA	UN Office for the Coordination of Humanitarian Affairs
OHCHR	UN Office of the High Commissioner for Human Rights
PDF	Popular Defence Forces
SAF	Sudan Armed Forces
SRCS	Sudan Red Crescent Society
SPLM/A	Sudan Peoples' Liberation Movement/Army
SPLM/A-NM	Sudan Peoples' Liberation Movement/Army-Nuba Mountains
SPLM-N	Sudan Peoples' Liberation Movement-North
SUDO UK	Sudan Social Development Organization United Kingdom
SUNA	Sudan News Agency
UN	United Nations
UNDP	United Nations Development Programme
UNCHR	United Nations Commissioner for Human Rights
UNICEF	United Nations Children's Fund
UNMIS	United Nations Mission in Sudan
UNSC	United Nations Security Council
WFP	World Food Programme

## Background

The Nuba Mountains Region / South Kordofan State is located in the geographical centre of the formerly undivided Sudan. More than 2.5 million people inhabit the area of approximately 88,000 square km (see Figure 1 above). The majority are sedentary farmers of African origins who embrace Islam, Christianity, and other beliefs while the next largest group of people are pastoralists of Arab origins. Other smaller groups in the region include different ethnic groups from all over the Sudan. Of significant importance are traders from central and far northern Sudan, Jellaba, and the Fellata, migrants from West Africa arriving since the 1920s. It was one of the war-torn regions during the civil war that ended with the signing of the Comprehensive Peace Agreement (CPA) in 2005.

In June 2011, a new war started in the region and ended the almost six years of peace between the Sudan Peoples' Liberation Movement/Army (SPLM/A) and the central Government of Sudan (GoS) that began when the CPA was signed in January 2005. The renewed fighting has lasted for four months so far and goes on unabated at the time of finalising this report.

On 30<sup>th</sup> of June, the Human Rights Section of the United Nations Mission in Sudan (UNMIS) produced a report, which suggested that war crimes were occurring during this outbreak of violence.<sup>1</sup> This suggestion was supported by reports of eyewitnesses and INGOs that spoke of systematic targeting of the civilian population by the Sudan Armed Forces (SAF), National Intelligence and Security Service (NISS) agents, and allied paramilitary troops. The SAF and President Al-Bashir's National Congress Party (NCP) denied the allegations and defended the use of force as the necessary, legitimate response to an armed rebellion.<sup>2</sup>

Formally speaking, both positions have some logic to them, though in relation to different frames of reference: international vs. national law, responsibility to protect vs. sovereignty. Irrespective of this and thus irrespective of the question about who started the fight, the UNMIS report and other sources show that the war is carried out with unjustifiable violence against unarmed civilians, particularly from the side of the SAF and its allies.<sup>3</sup>

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<sup>1</sup> *UNMIS report on the human rights situation during the violence in Southern Kordofan, Sudan*. UNMIS Human Rights Section, Khartoum, Sudan, June 2011. The report was officially published as *Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011*. OHCHR, August 2011.

<sup>2</sup> One of the first reactions was published on 18 August (<http://www.sunanews.net/english-latest-news/21623-sudan-refutes-claims-of-the-human-rights-council-on-violations-in-south-kordofan.html>, retrieved 11-09-2011); later media statements repeated the position taken there.

<sup>3</sup> There is almost no reliable documentation of military practices of SPLA forces in the Nuba Mountains since the recent outbreak of violence. A rare report from the early years of the 2nd Civil War showed abuses to be limited and punished by commanders (Omaar, Rakiy & Alex de Waal (ed.). 1995. *Facing genocide: the Nuba of Sudan*. London: African Rights, 304-329). The only presently reported incidence was the looting of UNMIS equipment in Julud and Kauda in early September

A deeper reading reveals how recent as well as historical developments successively led to the violent clashes. This eruption of violence in the Nuba Mountains was not surprising for close observers of the developments during the past years. Although the exact where and when could never be reliably predicted – too many tensions have accumulated – the possibility, probability, or even inevitability of a turn to violence has been overshadowing the region for several years.

The region tragically remains entangled in an antagonistic political constellation, which prevents non-violent, plural arrangements and obstructs a fruitful contest between multiple interest groups and parties for good solutions to the problems of the country. A significant part of the problem lies in the fact that both main parties to the conflict, the NCP and the SPLM/A, are born out of a military confrontation, and their *raison d'être* was and remains military power. Both of them do not represent in any democratic sense majorities of citizens. This constellation has reached a self-perpetuating stability and non-violent arrangements cannot possibly be established within the constellation.

This tragedy is not singular to the region, but underlies recurring wars all over Sudan. Since gaining independence in 1956, Sudan has undergone a troubled socio-political process that culminated in the longest civil war in contemporary Africa. This political situation is still prevailing. It is the inevitable manifestation of a dysfunctional state and a failing nation-building process. Unable to guarantee 'freedom from want' (poverty) and 'freedom from fear' (civil war and criminality), the postcolonial state in Sudan fails to hold the monopoly on violence and to deliver equal state services throughout the country. Instead of promoting national integration and unity with respect for socio-cultural diversity, the governing elites time and again resorted to forcing national unity through coerced uniformity. In consequence, the Republic of Sudan is a highly contested state, whose dominant power elites continue a violent fight to remain in power against the state's own citizens, caught in cycles of civil war and fragile peace agreements:

- the first civil war in southern Sudan (1955-1972), ended with the Addis Ababa Agreement;
- the second civil war (1983-2005) started initially in southern Sudan, extended gradually to northern Sudan via the Nuba Mountains and Blue Nile, and ultimately led to the separation of South Sudan on 9 July 2011;
- the full-blown crises in Darfur (2003 until today) and Eastern Sudan (2006); and finally
- the resumption of war in the Abyei, South Kordofan, and Blue Nile states (mid 2011).

These political, social, and humanitarian crises are clear indicators of the political disarray in the remaining northern Sudan and show an uncertain political future at the end of the CPA, signed on 9<sup>th</sup> of January 2005 between the GoS and the SPLM/A.

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2011 (<http://appablog.wordpress.com/2011/09/08/statement-attributable-to-unmis-liquidation-team-spokesperson/>, retrieved 11-09-2011).

In view of this, this report attempts to critically review the underlying dynamics that led to the resurgence of war in the Nuba Mountains / South Kordofan. The focus is on the short-sighted solutions in the CPA that not only proved fruitless, but contributed to the reproduction of an old pattern of violent conflicts taking on new shape currently. The report argues this by recounting major developments of the past decade and the background to them.

Two core arguments are advanced here. First, the resurgence of armed conflict in the Nuba Mountains implies that the CPA was not a 'comprehensive' and 'final' settlement accord to northern Sudan's recurring political conflicts. It was rather a long-term 'truce' or 'ceasefire', as far as the northern Sudan is concerned.

Second, violent conflict is here perceived not as a singular event situated on a time axis and in one delimited place in a territory. It is seen as part of a network of actions and reactions across space and time that may produce a violent climax at one point. Thus, the heavy shooting that occurred in South Kordofan's capital Kadugli on the 5 June 2011 was not the beginning of something new. It was rather the climax of several concomitant violent processes, which had taken different forms and had occurred on different levels throughout the CPA transitional period and before, and include events seemingly far away. This is corroborated by a number of interlinked events including serious and systematic violations of some key elements of the CPA that went without adequate response from both national and international key actors.

Thus far, the demands of international organizations and governments to cease hostilities remained without tangible results on the ground. On the contrary, the Sudanese president claims to continue to 'clean' South Kordofan of supposed 'rebels', after an agreement to start a political dialogue had been signed in Addis Ababa (see below).<sup>4</sup> The recent unilateral declaration of a two-week truce (from 23<sup>rd</sup> of August) reacts to international calls for evaluation rather than the needs and demands of the domestic population;<sup>5</sup> a delegation of UN agencies had been obliged to return to the capital Khartoum just three days before without any success (see Part 1).

Regarding this new instance of the international community's inability to prevent and to react effectively to what has been labelled a humanitarian crisis, the question arises as to what could and should have been done. This question is even more urgent since the outbreak of violence occurred right in the middle of a moni-

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<sup>4</sup> <http://www.sunanews.net/english-latest-news/20858-al-basher-confirms-success-of-his-visit-to-china.html> (retrieved on 11-09-2011).

<sup>5</sup> Amnesty International (AI) and Human Rights Watch (HRW) claim on basis of a week-long mission to Sudan Peoples' Liberation Movement/Army-Nuba Mountains (SPLM/A-NM) areas in late August that this truce was broken immediately. (<http://www.hrw.org/news/2011/08/30/sudan-southern-kordofan-civilians-tell-air-strike-horror>, retrieved 11-09-2011); visual material is provided on <http://www.hrw.org/features/civilians-under-fire-south-kordofan> (retrieved 11-09-2011). This was confirmed by the *OCHA South Kordofan and Blue Nile Situation Report No. 16* (25<sup>th</sup> of August – 2<sup>nd</sup> of September 2011). SAF has denied to have broken the truce, but claimed to have reacted to attacks by SPLM/A-NM (<http://www.sudantribune.com/Sudan-s-army-denies-violating,39997>, retrieved 11-09-2011).

toring UN mission (UNMIS), which was meant to prevent or at least foresee it early. The question can be carried even further: Why did this happen despite numerous credible reports that pointed to the drift back to war as early as 2008?<sup>6</sup>

This report shows that the perpetual treatment of the region's conflicts either as a proxy site for larger issues or as an isolated case with local issues is an effectively destructive approach taken both by the governments of northern Sudan and South Sudan, as well as by several international actors and agencies that were supposed to mediate.

By isolating and addressing one underlying cause, other causes are allowed to prosper in the shadow: The inter-communal violence cannot be understood without linking it to the divide-and-rule politics of the economic and political elites of the Nile Valley and to the large-scale land-grabbing, which is connected to international economic actors. The war-by-proxy in an oil-rich region cannot be understood without the question of who will buy and benefit from that oil. The reference of the ruling northern party, the NCP, to religious legitimization cannot be understood without the global discourses on terrorism and without its functioning as a claim of power vis-à-vis political opposition, often termed 'Western' or 'leftist'.

A feature of the new escalation of violence comes from the fact that technological facilities (internet and mobile telephoning) have dramatically changed since the atrocities in the Nuba Mountains between 1991 and 1995.<sup>7</sup> International reports became available from the beginning of the fights in June 2011.<sup>8</sup>

An additional difference is made by the massively increased importance of NGO activities. These two developments materialized in IT-supported social networks that were so functionally important to the revolutionary uprisings in North Africa and the Arab World. One overall effect of this development is obvious: the global network

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<sup>6</sup> The clearest analysis was done in a Small Arms Survey brief in August 2008, called *The drift back to war. Insecurity and militarization in the Nuba Mountains*. It was prepared by Julie Flint in the frame of the Sudan Human Security Baseline Assessment, which is a cooperation of the Canadian government, UNMIS, United Nations Development Programme (UNDP), and several international and Sudanese NGOs. Another similar report was that of International Crisis Group in 2008 titled *Sudan's Southern Kordofan Problem: the Next Darfur* (Brussels: ICG Africa Report 145).

<sup>7</sup> Throughout those years of seclusion from outside observers, first, mostly ignored reports were published from 1991 to 1993 (*Destroying ethnic identity. The secret war against the Nuba*. Africa Watch, December 1991; *Eradicating the Nuba*. Africa Watch, September 1992; *Patterns of repression*, Amnesty International, AFR 54/06/93, February 1993); others followed (like Prendergast, John & Nancy Hopkins. 1994. *For four years I have no rest: greed and holy war in the Nuba Mountains of Sudan*. Washington: Center of Concern). Comprehensive documentation became available only in 1995 and 1997 with African Rights reports *Facing genocide: the Nuba of Sudan* and *A desolate "peace". Human rights in the Nuba Mountains, Sudan*. The region's situation became also a part of United Nations Commissioner for Human Rights (UNCHR) reports on the *Situation of Human Rights in the Sudan*, especially in 1994 (E/CN.4/1994/48, Special Rapporteur Gaspar Bîro).

<sup>8</sup> Public media, which took early notice, were notably AFP, The New York Times, The Guardian, Sudan Tribune, Radio Dabanga, Sudan Radio Service, and Nuba Times, among others; BBC and Al-Jazeera followed later.



society is much better informed about events taking place in even the remotest places than was ever the case in history.

A less obvious effect of this fundamental change is the ensuing struggle over the reliability of information. This has created a new problem for people in charge of policy decisions. Ignoring all information that comes from informal sources like activist groups, NGOs, eyewitness reports in email circulars, and social networks (Twitter, Facebook) might easily lead to faulty decisions based on flawed official information. The opposite can also produce incorrect conclusion – that is – a hasty and naïve trust in activist information can easily lead to false reactions.

Yet, waiting until one has more reliable and detached information might imply that in the meantime atrocities are carried out. Reports from the field of scientific investigation are by definition late and thus cannot contribute to urgent decisions. However, one can still distinguish between rather fast and policy-oriented scientific contributions and rather slow scientific contributions telling the story of how it was from a safe distance in time and social space. This report belongs to the former category.

## Part 1: What can be known? – The structure of evidence

The documentation of what has happened since June 2011 is still very ambiguous, and the reliability of differing versions is at the centre of international debates on appropriate responses. On 9<sup>th</sup> of August 2011, a session of the United Nations Security Council (UNSC) discussed a resolution demanding a ceasefire and an independent evaluation of the situation. A formulation of this demand was refused by Russia, China, India, and Lebanon with the argument that evidence for atrocities was only available from non-governmental sources.<sup>9</sup> An investigative mission involving UN agencies and the Sudan Red Crescent Society (SRCS) under the governmental Humanitarian Aid Commission (HAC) headed off to South Kordofan on 20<sup>th</sup> of August and were bluntly sent away by local state authorities, who claimed to conduct an investigation themselves.<sup>10</sup> President Al-Bashir announced on 23<sup>rd</sup> of August a two-week ceasefire, allegedly to allow for such an investigation, but stressed at the same time that no foreign organizations will be allowed in South Kordofan.<sup>11</sup>

Both situations show a circular argument with respect to the political evaluation of evidence. On the one hand, evidence was refuted on the basis of its non-governmental source, not on the basis of its actual value as evidence. On the other hand, the access for an appropriate UN-based assessment was not pursued effectively and in fact prevented by the same forces whose behaviour is under scrutiny.

This circular argument can be avoided by discussing the evidence itself, and the main events and developments can in fact be outlined with significant certainty. The reporting has been very active from the first days; many eyewitness accounts from several war-affected areas gave much insight, independently from each other, and clear visual documentation was provided recently. Both of the main opponents in the fighting were conscientious from the beginning of the importance of finding media outlets for their versions of events. Due to the complicated entanglement of documentation and war-related propaganda, none of their statements can be taken at face value without third-party verification.

The Sudan government's media outlet Sudan News Agency (SUNA) has frequently reproduced statements by the NCP and the SAF.<sup>12</sup> At the same time, access

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<sup>9</sup> The UN agencies were the World Food Programme (WFP), the UN Office for the Coordination of Humanitarian Affairs (OCHA), and the United Nations Children's Fund (UNICEF); <http://www.sudantribune.com/UNSC-meeting-failed-to-call-for,39793> (retrieved 11-09-2011).

<sup>10</sup> This episode occurred just one day after Dafallah Elhag Ali Osman, northern Sudan's envoy to the UN, had vowed that a mission of six UN agencies will be allowed to conduct an assessment in South Kordofan (<http://www.sudantribune.com/Sudan-to-let-UN-access-South,39891>, retrieved 11-09-2011). On 21<sup>st</sup> of August, northern Sudan's Foreign Ministry claimed to have formed a committee monitoring the humanitarian, political, and media developments in South Kordofan (<http://www.sudantribune.com/Sudan-forms-taskforce-to-monitor,39905>, retrieved 11-09-2011).

<sup>11</sup> <http://www.sudantribune.com/Bashir-declares-truce-in-South,39920> (retrieved 11-09-2011).

<sup>12</sup> In English, the main outlets for NCP-sanctioned information are the SUNA (<http://www.sunanews.net/english-latest-news.html>), the Sudan Media Centre (<http://smc.sd/eng/>), and Sudan Vision Daily (<http://news.sudanvisiondaily.com/>, all retrieved 11-09-2011).

for INGOs and journalists to SAF-held areas was systematically denied;<sup>13</sup> SAF and NCP statements were overtly hostile to 'foreign agencies' and their involvement in the 'rebellion'.<sup>14</sup> Concerning domestic media, the exclusiveness of the NCP's version of the events was enforced by frequent censorship of newspaper reports, for instance in Al-Sahafa and Ijras al-Hurriyya, and the eventual closure of the latter.<sup>15</sup> This lack of multiple sources makes SAF and NCP information basically unreliable, because it cannot be triangulated.

Sudan Peoples' Liberation Movement-North (SPLM-N) also issued regular statements. Much of its perspective can be found on the websites of Radio Dabanga and Sudan Catholic Radio Network, often connected to eyewitness accounts.<sup>16</sup> Commander Abd al-Aziz Al-Hilu gave two major statements in the London-based and Saudi-owned newspaper *Al-Sharq Al-Awsat* (10<sup>th</sup> of June and 24<sup>th</sup> of July 2011). Although these statements are embedded into politics of information as well, the access of some international observers allows for a better evaluation.

Direct and systematic observation, but from a limited number of central locations (Kadugli, El-Obeid), was provided by UN agencies like WFP, UNICEF, and UNMIS up to mid-July. Their information and activities are presented in weekly situation reports by OCHA. UNMIS reported mostly through statements of its spokespersons, but the original UNMIS Human Rights Section report is up to now still the most comprehensive source of early events.<sup>17</sup> A limited number of northern NGOs work in close cooperation with the NCP part of the Government of Sudan;<sup>18</sup> their activities are also documented to some extent in the OCHA reports.

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<sup>13</sup> One Al-Jazeera team was stopped on 15 June 2011 by soldiers near Dilling, beaten, arrested, and interrogated (<http://www.anhri.net/en/?p=2705>, retrieved 11-09-2011); further coverage was done from Juba. President Al-Bashir announced also on 23 August 2011 that 'foreign organizations' would not be allowed in South Kordofan (<http://www.bbc.co.uk/news/world-africa-14632513>, retrieved 11-09-2011).

<sup>14</sup> One of many examples is the 'black listing' of foreign organizations connected to allegations of support for 'rebels' (<http://smc.sd/eng/news-details.html?rsnpid=33153>, retrieved 11-09-2011).

<sup>15</sup> Censorship in Sudan is well-documented; the developments concerning coverage of events in Kordofan have been noted by Index on Censorship and Reporters Without Borders (<http://www.indexoncensorship.org/2011/07/post-split-sudan-silences-dissenting-voices/>; <http://www.indexoncensorship.org/2011/08/sudan-newspapers-confiscated-by-security-forces/>; <http://www.indexoncensorship.org/2011/08/sudans-new-press-laws-will-threaten-free-speech/>; <http://en.rsf.org/sudan-censorship-prosecutions-and-12-08-2011,40772.html>; retrieved 11-09-2011).

<sup>16</sup> <http://www.radiodabanga.org/node/17500> (retrieved 11-09-2011); [http://sudancatholicradio.net/index.php?option=com\\_content&view=section&layout=blog&id=1&Itemid=84](http://sudancatholicradio.net/index.php?option=com_content&view=section&layout=blog&id=1&Itemid=84) (retrieved 11-09-2011).

<sup>17</sup> Inner City Press has compared the initial and the officially published, though still preliminary report and highlighted how abuses by SAF and allied forces as well as mistakes of UNMIS personnel were systematically underplayed (<http://www.innercitypress.com/un5kord081911.html>, retrieved 11-09-2011).

<sup>18</sup> These are basically the Sudanese Red Crescent Societies, Mubadiroon, and the Sudanese Development Call Organization (NIDAA), working under control of the governmental HAC.

There are also a number of NGOs and other civil society members who work in SPLM/A-NM areas, but still avoid publishing their documentation, apparently for security reasons.<sup>19</sup> Exceptions, for instance, are the Sudan Council of Churches,<sup>20</sup> Amnesty International (AI) / Human Rights Watch (HRW, see fn 5), and a limited number of journalists.<sup>21</sup> Eyewitnesses also informed reports by the Sudan Democracy First Group and the Sudan Social Development Organization United Kingdom (SUDO UK).<sup>22</sup> A new form of information is provided by the Satellite Sentinel Project, whose private satellite pictures of mass graves and displaced population were published and repeatedly reproduced.<sup>23</sup> YouTube is furthermore a platform for visual material.<sup>24</sup>

Another source are independent researchers who have been engaged for a long period in the region, are in continuous contact with informants in the region and have published most of their information online.<sup>25</sup> These kinds of sources provide direct, but rather occasional information, which has to be collected laboriously and put into the bigger picture.

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<sup>19</sup> This includes the Nuba Relief, Rehabilitation and Development Organization (NRRDO) and the Diocese of El-Obeid, who operates the only functional hospital in the SPLM/A-NM controlled areas.

<sup>20</sup> One of the crucial statements has been made by the Anglican Bishop of Kadugli ([http://www.un.org/News/briefings/docs/2011/110805\\_Sudan.doc.htm](http://www.un.org/News/briefings/docs/2011/110805_Sudan.doc.htm), retrieved 11-09-2011), connected to meetings with UN Security Council members and a hearing at the U.S. House of Representatives Committee on Foreign Affairs, Subcommittee on Africa, Global Health and Human Rights (<http://foreignaffairs.house.gov/112/and080411.pdf>, retrieved 11-09-2011).

<sup>21</sup> Tomo Križnár, Callum Macrae, and Trevor Snapp are among the few, who travelled into South Kordofan after 5 June. Križnár took pictures and videos of cluster bomb attacks, injured civilians, and people hiding in caves in June 2011 (<http://www.tomokriznar.com/ang/index.php?li=video>, retrieved 11-09-2011). Macrae produced a documentary shown on Al-Jazeera English with similar pictures from July 2011, followed by an interview with SPLM/A-NM's leader Abd al-Aziz al-Hilu (<http://aljazeera.com/programmes/peopleandpower/2011/07/2011713134945963823.html>, retrieved 11-09-2011). Additional photos came from Trevor Snapp ([http://trevorsnapp.photoshelter.com/gallery/G0000\\_y.lw.yPLfU](http://trevorsnapp.photoshelter.com/gallery/G0000_y.lw.yPLfU), retrieved 11-09-2011). Refugees and eyewitnesses in South Sudan were interviewed in Juba and other places, for instance by the BBC (<http://www.bbc.co.uk/news/world-africa-13882924>, retrieved 11-09-2011).

<sup>22</sup> *Ethnic cleansing once again: Southern Kordofan/Nuba Mountains. First week: Catalogue of Slaughter.* Sudan Democracy First Group, June 2011 (<http://www.sudantribune.com/Ethnic-cleansing-once-again,38972>, retrieved 11-09-2011); early numbers of IDPs and victims by SUDO UK (<http://www.sudouk.org/updates/latest.html>, retrieved 11-09-2011).

<sup>23</sup> Up to 6<sup>th</sup> of July 2011, the Satellite Sentinel Project concentrated on the documentation of heavy military equipment, bombardments, and civilian displacement in and around Kadugli; later reports were about the existence of mass graves (<http://www.satsentinel.org/reports>, retrieved 11-09-2011).

<sup>24</sup> Most footage gives impressions about the situation in Kauda, SPLM/A-NM's headquarter. This concerns a video showing an attack by air near the UNMIS compound on 14<sup>th</sup> of June (<http://www.youtube.com/watch?v=BICP2Ctvkb4>, retrieved 11-09-2011) and a film by Julie Flint, released in August 2011 (<http://www.youtube.com/watch?v=rSutTR5HFAM>, retrieved 11-09-2011).

<sup>25</sup> This includes the authors of this report, who made numerous telephone and Skype calls to Kadugli, Kauda, Heiban, Umm Dorein, El-Obeid, Khartoum, Juba, and Kampala, among other places. Other examples are Julie Flint (published in *The Guardian*, *The Wall Street Journal*), and Eric Reeves ([www.sudanreeves.com](http://www.sudanreeves.com), *The Dissident*).

## Part 2: Which kind of violence takes place? – The military situation

### *The escalation of violence in June 2011*

On 30<sup>th</sup> of May 2011, Ahmed Haroun was sworn in as governor of South Kordofan, and he promised an inclusive policy sustaining peace and stability.<sup>26</sup> As soon as the 4<sup>th</sup> and 5<sup>th</sup> of June, war broke out in Kadugli, Um Dorein, and Talodi, when the SAF attempted to disarm SPLA units in the Joint Integrated Units (JIU, see below). This disagrees with SAF claims that the fighting broke out after SPLA soldiers raided a local police station and stole small arms.<sup>27</sup> The swift presence of a huge number of heavy arms (tanks, artillery) of SAF in Kadugli demonstrates the actual preparedness of the government;<sup>28</sup> SPLM-N had warned before that its armed forces would not accept an unconditional surrender.<sup>29</sup> Thereafter, the violence spread quickly to other parts of the region, which were bombed on a daily basis and indiscriminately.<sup>30</sup>

The subsequent widespread insecurity of civilians has to do with the SAF practice of using Antonov planes to roll out bombs, which are dropped without clear targets (see fn 30). Already used during the civil war in the Nuba Mountains in the 1990s and in Darfur since 2003, these indiscriminate aerial bombardments point to a strategy to inflict general damage to an enemy's livelihood basis – like in conventional bilateral wars – and not to deal with specific armed groups of 'rebels' in one's own country. For instance, the bombing of civilian areas like markets, far from the presence of any armed groups, speaks a clear language in this regard.<sup>31</sup>

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<sup>26</sup> <http://www.sudanvisiondaily.com/modules.php?name=News&file=article&sid=75696> (retrieved 11-09-2011).

<sup>27</sup> Different versions of the still unclear events of the first days can be found here: <http://www.sudantribune.com/Clashes-erupts-in-South-Kordofan,39109> (retrieved 11-09-2011).

<sup>28</sup> The process of military preparation for war had been taking place for years (see next chapter); eyewitnesses confirmed the presence of SAF tanks, warplanes, infantry, and artillery from the first week (<http://www.radiodabanga.org/node/15065>, retrieved 11-09-2011), consistent with a previous report of concentrated heavy military machinery at El-Obeid by the Satellite Sentinel Project (*SAF troops, tanks, and artillery massing at El Obeid barracks*. SSP, 26<sup>th</sup> of May 2011).

<sup>29</sup> <http://www.nytimes.com/2011/05/30/world/africa/30sudan.html?pagewanted=all> (retrieved 11-09-2011).

<sup>30</sup> No comprehensive analysis of the military events since June 2011 is available, but detailed data on the air attacks is accessible (see Part 1), especially in the OCHA situation reports, in *Bombardment: Evidence of aerial and artillery attacks in the Nuba Mountains* (Satellite Sentinel Project, 30<sup>th</sup> of June 2011), in Eric Reeves' analysis of UNMIS and media information until 15<sup>th</sup> of July (<http://www.sudanbombing.org/files/Update%20to%20bombing%20report-July%2015,%202011.docx>, retrieved 11-09-2011), and in AI / HRW's recent investigation (<http://www.hrw.org/news/2011/08/30/sudan-southern-kordofan-civilians-tell-air-strike-horror>, retrieved 11-09-2011).

<sup>31</sup> Apart from the sources given in fn 27, numerous cases from a variety of informants can be quoted, for instance the UNMIS spokesperson on 14 June about Kauda (<http://www.bbc.co.uk/news/world-africa-13767146>, retrieved 11-09-2011), an eyewitness of an aerial attack on the market in Kurchi on 27 June (<http://www.guardian.co.uk/world/2011/jun/28/sudanese-bomb-village-border-war>, re-

The military strategy of limiting the presence of regular ground troops to the vicinity of Kadugli<sup>32</sup> and of attacking the other regions by air shows not a governmental army taking control of its legitimate territory against an illegitimate insurgency, but a hostile force in an unfamiliar, unwelcoming environment (see below).

The war was conducted with unabated brutality from the beginning: The UN-MIS Human Rights report of 30<sup>th</sup> of June 2011<sup>33</sup> reported dynamics, which were reported in many independent eyewitness accounts:

- house-to-house searches in Kadugli and Dilling with extrajudicial, summary executions;<sup>34</sup>
- arrest and torture of actual and alleged, mostly unarmed SPLM members;<sup>35</sup>
- attacks on and destruction of churches, schools, and private buildings belonging to Nuba and SPLM members;
- flows of refugees to Kadugli and from Kadugli to El-Obeid, Kauda and other towns<sup>36</sup>, from SPLM/A-NM areas into the mountains and to South Sudan.<sup>37</sup>

Many accounts mention that these acts were often connected to looting by SAF, NISS, and paramilitary forces, both of private houses and INGO offices and their equipment;<sup>38</sup> some UN offices and personnel were also targeted by SPLA-NM forces.<sup>39</sup> Although political killings seem to have been committed by both sides, at least

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trieved 11-09-2011), and SPLM/A-NM information about similar events around this day in up to ten villages, destroying one of the main markets in the Umm Dorein area (<http://www.radiodabanga.org/node/15723>, retrieved 11-09-2011).

<sup>32</sup> Larger battles took place mostly near or in the towns of Kadugli (e.g. Al-Hamra, Korongo Abdalla, Teis) and Dilling (e.g. Salara). See for instance <http://smc.sd/eng/news-details.html?rsnpid=33072>; <http://www.radiodabanga.org/node/16808>; <http://www.voicesforsudan.org/2011/08/south-kordofan-spla-in-the-media-war/>; <http://www.sudantribune.com/Sudan-army-claims-capturing-JEM,39604> (retrieved 11-09-2011).

<sup>33</sup> *UNMIS report on the human rights situation during the violence in Southern Kordofan, Sudan*. UN-MIS Human Rights Section, Khartoum, Sudan, June 2011.

<sup>34</sup> *Ethnic cleansing once again: Southern Kordofan/Nuba Mountains. First week: Catalogue of Slaughter*. Sudan Democracy First Group, June 2011 (<http://www.sudantribune.com/Ethnic-cleansing-once-again,38972>, retrieved 11-09-2011); *Aid workers recount ethnic killings in central Sudan*, Alan Boswell / McClatchy Newspapers, 16<sup>th</sup> of June 2011 (<http://www.mcclatchydc.com/2011/06/16/115997/aid-workers-recount-ethnic-killings.html>, retrieved 11-09-2011).

<sup>35</sup> *On the brink again: conflict and ethnic cleansing in South Kordofan*. African Centre for Justice and Peace Studies, July 2011 ([http://www.acjps.org/Publications/Reports/2011/OntheBrinkAgain\\_ConflictandEthnicCleansinginSouthKordofan.pdf](http://www.acjps.org/Publications/Reports/2011/OntheBrinkAgain_ConflictandEthnicCleansinginSouthKordofan.pdf), retrieved 11-09-2011).

<sup>36</sup> *OCHA Situation Reports South Kordofan No. 1-5* (8<sup>th</sup> of June – 15<sup>th</sup> of June 2011).

<sup>37</sup> *OCHA Situation Report South Kordofan No. 3* (11<sup>th</sup> of June 2011); <http://www.sudantribune.com/Over-5-000-refugees-from-South,39750> (retrieved 11-09-2011).

<sup>38</sup> *OCHA Situation Reports South Kordofan No. 2, 4, 9, 16* (9<sup>th</sup> of June – 2<sup>nd</sup> of September 2011).

<sup>39</sup> <http://appablog.wordpress.com/2011/09/08/statement-attributable-to-unmis-liquidation-team-spokesperson/> (retrieved 11-09-2011).

during the first days,<sup>40</sup> only SAF-controlled towns experienced the systematic killing of alleged political opponents on a racial basis (Nuba as 'fifth column').<sup>41</sup>

Other eyewitnesses spoke of arrests by military forces inside and around the UNMIS compound in Kadugli; some of the arrested were later found dead or were even executed in front of UNMIS personnel.<sup>42</sup> In Kauda, an early report indicates that UNMIS had also lost credibility with locals there, who stopped giving information.<sup>43</sup> However, SPLM/A-NM areas do not experience the general restriction of humanitarian aid as imposed by the HAC in Kadugli.<sup>44</sup>

A clear assessment of this situation is contained in the UNMIS human rights report mentioned above (see fn 33). The report accused both parties to the conflict of engaging in acts against civilians, but it singled out the conduct of SAF and allied paramilitary forces as "especially egregious" for they "have targeted members and supporters of the SPLM/A, most of whom are Nuba". The report documented a wide range of atrocities committed against civilians, consistent with what was listed above, adding the existence of mass graves, systematic destruction, leaving more than 70,000 people displaced, and a significant loss of life. It confirmed thirty-seven individual incidents of extrajudicial killings or death resulting from attacks on civilians. The report concludes that these acts may amount to war crimes and crimes against humanity under national and international laws, if verified.

These aspects lead to several questions: Why did SPLA soldiers refuse disarmament, which was stipulated to happen after the independence of South Sudan? Why did their refusal trigger such a violent response by the SAF? And if this response was in general a legitimate use of force, why was it connected to extrajudicial killings of unarmed SPLM members and the destruction of civilian livelihoods, systematically in towns and arbitrarily in rural areas?

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<sup>40</sup> For instance the killing of the chairman of the NCP's branch in Buram (<http://www.sudantribune.com/South-Kordofan-s-clashes-force-UN,39136>, retrieved 11-09-2011).

<sup>41</sup> *OCHA Situation Report South Kordofan No. 4* (14 June 2011); *Sudan eyewitness recalls South Kordofan horror*, AFP, 17 June 2011 (<http://english.ahram.org.eg/NewsContent/2/8/14459/World/Region/Sudan-eyewitness-recalls-South-Kordofan-horror.aspx>, retrieved 11-09-2011).

<sup>42</sup> *OCHA Situation Report South Kordofan No. 8* (25 June, 2011); *South Kordofan: reports of mass atrocities*. Sudan Ecumenical Forum, 10<sup>th</sup> of June 2011 (<http://reliefweb.int/sites/reliefweb.int/files/resources/South%20Kordofan%20FINAL%202.pdf>, retrieved 11-09-2011).

<sup>43</sup> *South Kordofan: reports of mass atrocities*. Sudan Ecumenical Forum, 10<sup>th</sup> of June 2011 (<http://reliefweb.int/sites/reliefweb.int/files/resources/South%20Kordofan%20FINAL%202.pdf>, retrieved 11-09-2011).

<sup>44</sup> *OCHA Situation Report South Kordofan No. 10* (5<sup>th</sup> of July 2011) notes: "Outside of Kadugli town, government authorities are not allowing UN agencies free access to any location. According to the HAC, access is being denied because of the current security situation and the presence of landmines. However, in the case of areas outside of the control of the SAF, those humanitarian organizations that were already present when the conflict broke out on 5 June are able to continue delivering relief assistance, with limited supplies and mainly through national staff."

## *Processes of militarization before June 2011<sup>45</sup>*

The main reason given by President Al-Bashir's NCP and the SAF to legitimize their military actions is the state's duty to exclude any other armed group from its territory in order to protect its citizens. Anyone accepting this statement assumes that NCP and SAF indeed represent 'the state' legitimately. This aspect will be discussed in the following parts; the present chapter deals with the question about why the military situation escalated to this point.

The CPA of 2005 provided a special Protocol for the resolution of the conflict in South Kordofan and the southern Blue Nile State (Chapter V, in the following short 'the Protocol'). The Protocol for the two states set as a basic arrangement a power sharing between the former war parties, specifically, 45% for SPLM/A and 55% for NCP in executive and legislature. The security arrangements in Part VI of the peace agreement provided for the establishment of JIUs in South Kordofan, consisting of 6,000 troops divided equally between SPLA and the SAF. Their mandate was to provide security during the interim period of the CPA scheduled to end on 9<sup>th</sup> of July 2011.

Actually, the military facts remained to be the main factor in political manoeuvres. Separated since a Ceasefire Agreement for South Kordofan in 2002 by its monitoring body, the international Joint Military Commission (JMC), the SPLM/A-NM and the SAF marked their zones of influence by checkpoints and military presence. Both forces reduced their presence only partially after 2005.

Furthermore, the power sharing arrangement continued to be seen as a preferable status quo by the NCP, while the SPLM/A-NM hoped to gain undisputed dominance through the elections. But during the first stages of the election process, the national census in 2009, the political manipulation of this supposedly statistical exercise became obvious: The constant redrawing of constituencies by including and excluding part of the inhabitants marked an unceasing process of provocation, protest, and renegotiation between the 'partners' (see Part 3). This led to the delay of the population census from 2009 to 2010, and subsequently a postponement of the elections in South Kordofan from April 2010 to April 2011 as the only state in the country.

The elections, in spite of the presence of supposedly neutral international observers, continued in this pattern. The strong expectations concerning the outcome in favour of one's own political inclinations rendered the whole exercise extremely tense, and SPLM/A-NM withdrew from the final stage of the counting process and rejected the result, after claims of manipulation were disregarded by the authorities (see Part 3).

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<sup>45</sup> The analysis in this chapter is based both on own observations from 2005 to 2011, and writings of Julie Flint, namely *The drift back to war. Insecurity and militarization in the Nuba Mountains* (Sudan Human Security Baseline Assessment issue brief, Small Arms Survey, August 2008), and *The Nuba Mountains: Central to Sudan's Stability* (CPA Alert No. 3, IKV Pax Christi, January 2011).



At the same time, the military institutions of the war were not dismantled, but continued and even consolidated. Recruitment into SPLA-related groups as well as into the NCP-friendly paramilitary Popular Defence Forces (PDF) continued in a constant process of mutual observation: The SPLA started to withdraw its troops beyond the borders to the south, while SAF consolidated its position in the state. The SPLM/A-NM amassed troops in camps near the south-north borders; the SAF concentrated heavy weapons on standby inside the region. While the integration of the two administrative systems was slow and strained (see Part 3), PDF were visibly institutionalized with a new building in Kadugli; and the SPLM/A-NM rotated its part of the JIUs regularly with forces it had concentrated in Jaw in Unity State, South Sudan<sup>46</sup>. In addition, disarmament programmes went on with little effect, while more and more reports of heavily armed units appeared, also associated with ethnic groups like Missiriyya and Hawazma<sup>47</sup>. Several outbursts of violence in the region showed the underlying tensions<sup>48</sup>.

However, the process of militarization had many more layers. Both the NCP and the SPLM/A-NM had established recruitment and education mechanisms, which systematically militarized the population and thus blurred the boundaries between military staff and civilians. The NCP worked with the PDF system, which was used as an instrument of paramilitary mobilization since the 1990s. PDF units were headed by SAF officers, which made them formally part of the regular sources. Those recruited as PDF superseded the agreed number of SAF soldiers in the JIUs, though, therefore they were not counted in the official reports.

The militarization of society worked not only through the recruitment of PDFs, which was done since the 1980s, mostly by arming pastoralist groups in the frame of a counter-insurgency policy. Recruitment and military training also became an integral part of the education system in the towns: No secondary school certificates were handed out, until a basic military service had been completed, which consisted not only of military, but also of ideological drills.

The SPLM/A, however, required basic military training for almost everybody wishing to join the party. Parallel to this integration of political and military recruitment, the SPLM/A maintained its military hierarchy in its political organization. Like the NCP, the SPLM/A-NM implemented also no effective programme of disarmament in the regions it dominated, neither among its soldiers nor among civilians.

As a result, almost no household in South Kordofan is without some kind of weapon, mostly small arms like AK-47. On both sides the 'civilian in arms' is a fun-

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<sup>46</sup> This explains the attacks of the SAF on Parieng County in the south Sudanese Unity State, where Jaw is located (<http://www.sudantribune.com/SAF-air-raid-kills-5-civilians-in,39163>, retrieved 11-09-2011).

<sup>47</sup> The best overview of existing troops in South Kordofan before June 2011 is *Armed entities in South Kordofan*. Sudan Human Security Baselines Assessment, Small Arms Survey, 4 June 2011 (<http://www.smallarmssurveysudan.org/pdfs/facts-figures/armed-groups/three-areas/HSBA-Armed-Groups-South-Kordofan.pdf>, retrieved 11-09-2011).

<sup>48</sup> Komey, Guma Kunda. 2010. *Land, Governance, Conflict and the Nuba of the Sudan*. Woodbridge & Rochester: James Currey.

damental part of the political realities and blurs clear distinctions in a situation of war<sup>49</sup>. These developments rendered the situation ready to explode, which it did after a unilateral presidential decree to disarm remaining SPLA soldiers in North Sudan after 1<sup>st</sup> of June 2011. In accordance with the security arrangements in chapter VI of the CPA, JIUs of equal numbers from both SPLA and SAF were deployed as follows:

- 24,000 JIU soldiers in South Sudan;
- 12,000 JIU soldiers in the two states, Blue Nile and South Kordofan, divided equally and deployed in various towns;
- 3,000 JIU soldiers in Khartoum.

It is crucial to see that, unlike the mixed nature of the JIUs in South Sudan and Khartoum, all SPLA soldiers in the JIUs in South Kordofan and Blue Nile State were citizens of these regions. One of the most explosive failures of the CPA was to provide no frame for the future of SPLA forces in these two regions of the North in case of the separation of South Sudan by referendum.

In this situation, the NCP claimed that all SPLA soldiers in South Kordofan and Blue Nile belonged to the armed forces of the Government of South Sudan (GoSS) and had to withdraw south of the international border between North and South Sudan (see below). In response, the GoSS claimed that these soldiers were citizens of North Sudan and had to remain in their respective states<sup>50</sup>. Both positions left SPLA soldiers in North Sudan in a dangerously uncertain position.

On 23<sup>rd</sup> of May 2011, the SAF issued an ultimatum to the SPLA forces in South Kordofan and Blue Nile dated 1<sup>st</sup> of June 2011 to withdraw south of the north-south borders as of 1<sup>st</sup> of January 1956, based on a presidential decree<sup>51</sup>. The letter to SPLM-N's leadership had been issued by the SAF Chief of Staff and gave three options: to disarm SPLA's soldiers, to retreat into southern territory, or to be disarmed by force. Thereafter, the SAF threatened to attack any SPLA forces in North Sudan after the ultimatum.

Two key observations are worth noting here. First, strictly speaking, the date of the ultimatum of 1<sup>st</sup> of June has no reference in the CPA's security arrangements. Second, the presence and dissolution of the SPLA forces in the two areas are intrinsically connected to the political arrangements that were meant to provide for the final settlement of the conflict in the two areas. Since the final political settlement has been pushed forward beyond 9<sup>th</sup> of July, this implied that the related security arrangements had to be carried on as well for they were part of the political settlement package. The unilateral step of disarming the SPLA forces in the two states was

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<sup>49</sup> Some of the on-going arming between 2008 and 2010 was documented in *Arms flows to North and South Kordofan*. Sudan Human Security Baselines Assessment, Small Arms Survey, October 2010 (<http://www.smallarmssurveysudan.org/pdfs/facts-figures/armed-groups/three-areas/HSBA-Armed-Groups-Kordofan-flows.pdf>, retrieved 11-09-2011).

<sup>50</sup> <http://www.sudantribune.com/SPLA-denies-having-troops-in-Sudan,39072> (retrieved 11-09-2011).

<sup>51</sup> This letter and a reaction by Malik Agar have been reported by The New York Times (<http://www.nytimes.com/2011/05/30/world/africa/30sudan.html?pagewanted=all>, retrieved 11-09-2011).

therefore rejected by the SPLM-N, as they demanded a new mutually negotiated security arrangement valid beyond 9<sup>th</sup> of July, since this was one of the unresolved issues connected with the CPA.

The recent steps of the NCP-dominated National Parliament to amend the Popular Consultation Law (see Part 3) imply that the NCP regards the CPA, and thus also the Protocol, as still valid. A unilateral decision to set an ultimatum is therefore a straightforward violation of the CPA. Not only this: If this part of the CPA was to be amended, which implies that it was valid at least until 9<sup>th</sup> of July, the SPLA forces in North Sudan were still a part of the legitimate JIUs.

Moreover, the SPLM was part of the national government through its elected members in the National Parliament and Council of Ministers. The SPLM-N is also part of the elected governments of Blue Nile and South Kordofan not only until July 2011, but up to the coming election in three years' time. In other words, the demand to disarm the SPLA forces in North Sudan, whose commanders are part of government's armed forces in the North, thus meant a government suddenly declaring a part of itself 'rebels'.

The decree added more pressure to already strained tensions in the two regions. Malik Agar, the chairman of the SPLM-N and elected governor of the Blue Nile State, stated immediately that the SPLA forces in the two states would not surrender without a clear agreement (see fn 51). In short, they were pushed into a corner by the ultimatum while political arrangements, recognized by the CPA, remained unimplemented. In this position, the obvious reaction was to fight back against any attempt to forcibly disarm SPLA forces or to push them out of their own homelands.

It is therefore crucial for any analysis to distinguish between different political and military forces often described as one under the name SPLM. Since the 9<sup>th</sup> of July 2011 the majority of the SPLM forms the governing party of the new Republic of South Sudan under President Salva Kiir; most of the Republic's armed forces consist of the former SPLA. SPLM is formally separated from the northern political party SPLM-N, which struggles for recognition and now also its own survival under the NCP's domination in the northern Republic of Sudan. The SPLM-N has powerful branches in Blue Nile and South Kordofan, which both have armed forces inherited from the war; these formed part of the JIUs. The South Kordofan / Nuba Mountains branch, which had experienced long periods of isolation during the civil war, is designated here as SPLM/A-NM and currently continues the armed struggle.

While the following parts will analyse the reasons for and consequences of this situation, it is important to note that the explicit radicalization of the situation took place long before the ultimatum. In this sense, the role of the previous election for the escalation of the conflict cannot be confined to the results, but to details of the entire process during the transitional period.

Aggressive campaigns coupled with several limited but serious violent events played the greatest part in fuelling the tension between the two parties. Already in the beginning of the tense election campaigns, paramilitary PDF, allegedly backed by the NCP's incumbent candidate in gubernatorial election Ahmed Harun, attacked Al-

Feid, the homeland of SPLM's candidate Abd al-Aziz Al-Hilu. 17 people were killed and hundreds of houses burned, resulting in the displacement of the entire village<sup>52</sup>.

Furthermore, President Al-Bashir's public speeches in the Missiriyya areas of Muglad, Babanosa, and El-Fula in the western part of South Kordofan, were openly confrontational and incited the already fragile ethnic and political relations in the region. Addressing NCP supporters in Muglad on 27 April 2011, Al-Bashir openly threatened to militarily trace the Nuba from hill to hill, if they rejected the upcoming election outcome, claiming victory for his party ahead of time. He warned the contesting SPLM by stating that the movement must submit to the will of ballot boxes or else 'boxes of bullets' will decide the matter. By doing so, the president himself framed the political competition in the election as pre-determined and linked to military presence. In response, Al-Hilu accused the NCP leaders for violating election laws and advocating a language of war<sup>53</sup>.

The legitimacy of the election results was discussed repeatedly as a matter of procedures and numbers, and thereby framed as the bone of violent contention even before the votes were cast. The following part will discuss this situation in detail.

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<sup>52</sup> <http://www.sudantribune.com/Militia-attacks-in-Sudan-s-South,38579> (retrieved 11-09-2011).

<sup>53</sup> <http://www.sudantribune.com/Sudan-President-Al-Bashir,38717> (retrieved 11-09-2011); <http://smc.sd/eng/news-details.html?rsnpid=32496> (retrieved 11-09-2011).

### **Part 3: Why does violence take place? – The political situation**

#### *The election as a process and its disputed results*

In addition to the on-going human tragedy, the violence has put an end to the NCP-SPLM partnership in the region. The crux of the matter is that one party alone cannot carry out the popular consultation because according to the CPA it is meant to function as the “final settlement of the political dispute” and “restoration of peace”<sup>54</sup>. To be precise, the conflict cannot be settled unilaterally in the absence of one party to the conflict, in this case, SPLM-N<sup>55</sup>.

Apparently, instead of insisting on an effort aimed at restoring peace through an immediate ceasefire agreement and cessation of hostility, the NCP seems to be determined to go ahead with the process of popular consultation alone. The unilateral amendment, and subsequent extension of the Popular Consultation Law of 2010 by the NCP-dominated National Parliament on 18<sup>th</sup> of July 2011 in the absence of the protesting SPLM-N members attests to this assertion<sup>56</sup>. This implies that the NCP in South Kordofan may decide to form a government, commence state parliament sessions, form a popular consultation commission, and start its process in the absence of the 21 SPLM-N out of 54 elected members in the State Assembly (about 39%), while a huge part of the population is already estranged more than before by the aggressive politics of the ruling elites in the capital Khartoum.

In any case, it is not conceivable how to put an end to a political conflict in the absence of one major party in the same conflict. The participation of the SPLM-N is essential if a final settlement of the political conflicts in the two states of South Kordofan and Blue Nile is to be achieved. Unfortunately, this seems to be a remote possibility, as the NCP’s political programme aims at enforcing national unity through uniformity and by military force (see Part 4).

In many analyses, the recent violence has been displayed as a consequence of the elections, specifically the SPLM/A-NM’s refusal to accept the results, in spite of international recognition represented by the Carter Centre. This view disregards a central point: The opportunity for the elections in South Kordofan to solve political conflicts did not come from its degree of numerical validity only, but also from how the pre-election political rivalry took place after years of violence.

Both sides framed their expected outcome in a way that any other outcome would have been a reason for an eruption of violence. The elections failed to estab-

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<sup>54</sup> *Framework of the Popular Consultation in Southern Kordofan and Blue Nile States Act 2010* ([http://www.ldphs.org.za/resources/local-government-database/by-country/sudan/national-legislation/Popular\\_Consultation\\_Act.pdf](http://www.ldphs.org.za/resources/local-government-database/by-country/sudan/national-legislation/Popular_Consultation_Act.pdf), retrieved 12-09-2011).

<sup>55</sup> In our analysis, the recent engagement with Daniel Kodi, who claims to be a representative for SPLM-North, is only a perpetuation of divide-and-rule policies. There is no sign of a democratic decision-making process legitimizing such a claim.

<sup>56</sup> <http://www.sudantribune.com/Sudanese-parliament-endorses,39592> (retrieved 12-09-2011).

lish a legitimate government, not due to the way in which they were conducted, but rather because from the very beginning there was no political will for a legitimate government recognized by both sides. The confrontational zero-sum logic of the civil war was governing the process of the elections throughout.

It is thus a fruitless exercise to try to spot the one who was actually winning the elections. The most often quoted assessment of the election process, the statement of the Carter Center<sup>57</sup>, notes innumerable circumstances of insecurity and cases of violations, and thus de facto points to a balance of manipulation. Its overall conclusion – saying that the elections were carried out in a ‘peaceful and credible manner’ – is thus not based on the evidence given in the report itself but seems rather motivated by leniency towards a transitional process from authoritarianism to democracy. The intention was good but it contributed to the disastrous situation now prevailing in the region because it facilitated a political explosion by giving credibility to political electoral competition based on unconcealed threats and the open use of violence. Any unbiased assessment of only the numbers shows that the multiple distortions and inconsistencies of the process make it impossible to determine who the voters really voted for. The way the elections were conducted mainly shows how pre-existing asymmetries of power were perpetuated. To treat the NCP and the SPLM-N analytically as two different, opposing but otherwise equal political parties, disregards decades of exploitation and inequality (see Part 4).

For the sake of critical examination of the election as a process and its result, the following aspects have to be considered: One of the preparatory steps for the national election process was to conduct the Fifth National Population Census in 2009<sup>58</sup>. It was evident from the beginning that the population census was not only a technical, but a highly politicized exercise, because of the intrinsic link between the census, the demarcation of electoral constituencies, the election process, and – in South Kordofan and Blue Nile – the popular consultation (see below).

The contest over these issues between the two partners in South Kordofan was very tense from the start when the SPLM/A-NM raised its concern regarding the way the NCP wanted to carry out the census. This concern centred on three aspects: 1) the exclusion of SPLM/A-NM, the legitimate partner, from effective participation in almost all stages of the process; 2) the prevailing state of insecurity and local violence in the region, making each administrative effort impossible; and 3) some key pre-election requisites enshrined in the CPA were not fulfilled, namely: integration of the qualified SPLM members from the region in public administration, civil services, judiciary and security forces in the region.

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<sup>57</sup> <http://www.cartercenter.org/resources/pdfs/news/pr/sudan-SouthKordofan-051811.pdf> (retrieved 12-09-2011).

<sup>58</sup> The only credible census was the first in 1955/1956, which was followed by partial counts in 1973, 1983, and 1993, leaving out huge areas of Sudan. A detailed assessment of the 5<sup>th</sup> census’ shortcomings, though concentrated on Darfur, was published by the Darfur Relief and Documentation Centre in February 2010 (*5th Population and Housing Census in Sudan – An Incomplete Exercise*, [http://www.darfurcentre.ch/images/00\\_DRDC\\_documents/DRDC\\_Reports\\_Briefing\\_Papers/DRDC\\_Report\\_on\\_the\\_5th\\_Population\\_Census\\_in\\_Sudan.pdf](http://www.darfurcentre.ch/images/00_DRDC_documents/DRDC_Reports_Briefing_Papers/DRDC_Report_on_the_5th_Population_Census_in_Sudan.pdf), retrieved 12-09-2011).

When the NCP insisted on proceeding with the census, the SPLM/A-NM decided to boycott it and prevented the census staff from entering areas under SPLM/A-NM control in the region. Thus, the population census was only partially conducted in 2009, stating a total population of about 1.4 million. The SPLM/A-NM then decided to boycott the election at the state level (state governorship and parliament) unless the census was rectified. After some negotiation, the two parties agreed to repeat the census and postponed the election in the region until afterwards. In 2010, the census was repeated in almost all areas, resulting in a tremendous increase of the counted population from 1.4 million in 2009 to more than 2.5 million in 2010.

Thereafter, the tension between the two partners in the region shifted from the census to another politics of numbers, namely the demarcation of the electoral constituencies, which, to a large extent, would determine who was more likely to win the election to come. There was a specific mathematical formula to determine the population number establishing an electoral constituency. But the constituencies revealed by the Election Commission were disadvantaging areas with a majority of SPLM supporters, because their constituencies were overpopulated.

The SPLM pointed out that the population of constituencies in areas dominated by their supporters was far above the set standard, while those of the NCP supporters were often far below it. The officially announced constituencies proved the SPLM complaint justified by showing a high correlation of overpopulated constituencies and a majority of Nuba population in these areas which meant that the SPLM would automatically have fewer seats than would result from the application of the standard size of a constituency.<sup>59</sup>

This is a crucial point, because it is this difference that allowed NCP to win 22 geographically defined seats against 10 for the SPLM, although 191,582 voted for the SPLM (47.16% of all voters), while 182,751 voted for the NCP (44.99% of all voters). Another piece of evidence, which proves the systematic manipulation of the population size of the constituencies, is the fact that the SPLM candidates won with voter numbers ranging between 7,000 to 21,000 voters, representing 82% of all voters in each constituency on average, while NCP candidates won with voter numbers ranging between 4,000 to 11,000 voters, representing 65% of all voters in each constituency on average.

The lower number of votes in the NCP constituencies may indicate a lower turnout of registered voters. However, together with the earlier observations, it shows that the actual number was overestimated to justify creating a constituency. These manipulations substantiate the historical situation that despite their statistical

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<sup>59</sup> These dynamics have been documented in several newspaper articles and reports, notably in *Sudan's Southern Kordofan problem: The next Darfur?* (International Crisis Group, Africa Report No. 145, 21<sup>st</sup> of October 2008, <http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/sudan/Sudans%20Southern%20Kordofan%20Problem%20The%20Next%20Darfur.pdf>, retrieved 12-09-2011), and in Aly Verjee's preliminary report *Unfinished business: The May 2011 state elections in Southern Kordofan* (31<sup>st</sup> of March 2011, [http://www.sudantribune.com/IMG/pdf/Unfinished\\_Business-South\\_Kordofan\\_s\\_State\\_Elections-3.pdf](http://www.sudantribune.com/IMG/pdf/Unfinished_Business-South_Kordofan_s_State_Elections-3.pdf), retrieved 12-09-2011).

majority, the Nuba constitute a political minority due to different tactics by the state's ruling elites. It is this context that does not reflect the will of the majority of the voters in the region that gave the NCP 33 seats in the State Assembly against 21 for the SPLM.

A recent comprehensive statistical report casts doubt on the credibility of the election results in this sense.<sup>60</sup> Using the National Election Commission's (NEC) published data, the report reveals in detail gross contradictions of the results. It suggests that "Ahmed Harun's victory cannot [...] be definitively established statistically" (p. 2), which is even more significant, since official results gave NCP's incumbent governor Ahmad Muhammed Harun little more than a one per cent margin of victory, 6,500 votes, over his former deputy, SPLM's Abdulaziz Adam al-Hilu. The report states that "the conduct of the election was contentious even before the campaign", therefore "a narrow victory on the part of the incumbent NCP governor was immediately rejected by the SPLM as rigged" and

[i]t is hardly surprising that aggrieved parties did not pursue legal challenge to the votes. The Carter Center's earlier conclusions on the inadequacies of legal complaint processes confirmed the futility of such an exercise. And thus a disputed election has given way, not to a legal contest, but to a brutal war. (p. 12)

The Carter Center failed to relate its overall assessment of the results with the earlier phases of voter registration and polling, and it did not continue its presence in Kadugli to the end of the rechecking and the announcement of the results due to the then growing tension and insecurity in Kadugli. The Carter Center's overall finding that the result of the vote was definitely *credible* is not supported by the data and its own observations, the consequences of that assessment are serious: "On the basis of the election results, the NCP claims a democratic mandate to rule. On this basis it justifies the current military action against the SPLM-N." (p. 1)

Accordingly, the background of seemingly technical errors came to the surface in the subsequent war. The election results show how deep the social world in the region is divided along ethno-political lines: NCP won 22 geographical constituencies in areas dominated by Baqqara Arabs in western and northern South Kordofan, and some parts of Kadugli town, while SPLM won 10 seats in areas dominated by Nuba communities in Kadugli West (1), rural Dilling (1), Salara (1), Umm Durayn (1), Buram (2), Heiban (3), and Habila-Dellami in Kawalib (1). These Nuba-dominated areas, which supported SPLM during the election, are now the primary targets of the government's air bombardments. This implies that political support of SPLM, military rebellion, and the Nuba communities' livelihood base are the same in the view of both the SAF and the NCP during this on-going conflict.

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<sup>60</sup> Verjee, Aly. 2011. *Disputed votes, deficient observation. The 2011 election in South Kordofan, Sudan*. Rift Valley Institute, African Elections Project Research Paper. (<http://riftvalley.net/resources/file/RVI%20Report%20-%20Disputed%20Election,%20Deficient%20-%20-%20Observation%20-%20C3%B1%2021%20August%202011%20-%20Final.pdf>, retrieved 12-09-2011).



The house-to-house searches inside Kadugli were directed against SPLM supporters, many of whom were killed immediately at the beginning of the conflict in Kadugli, even if they were not active in the armed conflict (see Part 2). The election campaigns exposed the SPLM supporters in public and thus made it easy for the military and security agents to identify them during the search. In short, the potential – and now realized – causal link between practices before and during the election campaigns, voting and announcement of results, and the eruption and organization of violence in the region is undeniable. The failure of the Carter Center to acknowledge and address this link in its overall conclusion was a major, critical misjudgement.

In conclusion, our analysis shows that the steps put forward by the CPA as pre-conditions for preparing the region for peaceful, fair, transparent and credible elections were not fulfilled. Thus, the region was neither socially nor politically prepared for elections, due to social disunity and polarization among different ethnic groups coupled with growing political and military rivalry between the two ruling partners in the region. Moreover, the pre-election political discourse indicated that the two contesting parties were not prepared to accept to be a political minority. They, therefore, built up their military capabilities in the region particularly in and around Kadugli town, which reached its peak during the announcement of the disputed results. It was obvious that there was a tendency towards military confrontation and not political dialogue to enforce the disputed results; a situation that created an increasing tension in the region before its explosion.

### *The CPA and its failure*

In the following we argue that the CPA between the GoS and the SPLM/A (2005) contains loopholes coupled with a lack of political will in the implementation process by one or both parties to the agreement, and that paved the way for the chain of actions and reactions that produced a series of violent conflicts, which reached a climax in Kadugli on 5<sup>th</sup> of June 2011.

The restart of the war in Abyei, the Nuba Mountains, and Blue Nile at the end of the transitional period defined in the Comprehensive Peace Agreement (2005-2011) implies that the CPA was just a long-term ceasefire arrangement for northern Sudan. The crux of the matter is the commonly held, but ultimately wrong conviction that the underlying root causes of Sudan's large-scale and protracted civil wars had been accurately diagnosed, comprehensively negotiated, and finally transformed into a text that provides a final settlement for Sudan's social, economic, and political problems.

On the contrary, after the end of the transitional period, the prevailing political disarray in northern Sudan informs that the CPA is neither 'comprehensive' nor effective for political stability. Indeed, substantial evidence proves that the implementation and outcome of the CPA have been below the expectations of several communities, particularly the war-torn regions of the Nuba Mountains, southern Blue Nile and

Abyei, widely referred to as contested, marginalized, transitional areas or border territories, while recently described as “the New South” in geographical and socio-political terms. Apart from that, it was obvious from the very beginning that Darfur (where the armed conflict escalated in 2003) was left out by the two parties of the CPA and that this alone demonstrates the *incomprehensiveness* of the ‘Comprehensive Peace Agreement’ since it did not include all relevant stake-holders (see more detailed below).

The recent return to war in Abyei in May, South Kordofan in June, and Blue Nile in September 2011 not only pleads for an urgent intervention to de-escalate the situation, but also imposes a need for *a critical rethinking* of the way the CPA was conceived by various involved national and international actors, and, subsequently, of the manner in which the conflicts in these contested areas were and still are (mis)conceived and (mis)handled. The importance of a critical rethinking at this decisive moment of the emerging two Sudans stems from the fact that the potential international mediators are likely to repeat the same mistakes, while trying to intervene and provide solutions to the unfolding conflicts in these and other contested borderlands. The failure of constant monitoring of CPA implementation by the UNMIS and by the Assessment & Evaluation Commission (AEC), composed of international experts, to lead to *timely and effective* responses shows either that the chosen prioritization was inadequate for the region’s burning issues or that the formal procedures to react to significant violations were insufficient.<sup>61</sup>

The crucial point is that the delays in implementation were not simply *technical* problems or *adjustments*, but part of political manoeuvres that jeopardized fundamental steps to take place: The time-frame of the agreement was fixed – 9<sup>th</sup> of January 2011 as the date of the referendum was not negotiable – so every presupposed step grew more and more improbable with every delay. With each successive setback, the Interim Constitution came too late, the census had to be repeated, the elections were adjourned, the Popular Consultation, which was supposed to take place *before the referendum* and as a cooperation of the NCP and the SPLM, became more unlikely.

Now the NCP tries to go ahead unilaterally with a mock ‘consultation’, while it is at war with the ‘partner’ it had agreed to be consulting with. This became apparent with repeated statements from the NCP to continue in the frame of the CPA and the recent unilateral amendment of the Popular Consultation Law (see Part 3). The exclusion of SPLM-N as a ‘foreign power’ is irreconcilable contradiction to that – the CPA

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<sup>61</sup> The final report of the AEC regarded the Framework Agreement, signed on 28<sup>th</sup> of June between presidential adviser Nafi’ Ali Nafi’ and SPLM-N chairman Malik Agar in Addis Ababa, as a first step to return to a political dialogue. Events in July and August showed the futility of such a hope. However, the report rightly concludes: “Elections in both Southern Kordofan and Blue Nile had earlier demonstrated that the two main political movements in the states were almost equally balanced in strength. In these circumstances, political accommodation and renewed partnership, however difficult, were clearly essential if further conflict and suffering were to be avoided” (*AEC Final Report*, Assessment & Evaluation Commission, 6<sup>th</sup> of July 2011, page 7).

is an agreement *with* the SPLM and any amendment would have to be made in the frame of a political understanding between the two parties.

However, these conflicts go back to the way the CPA was originally engineered. The basic promise of the CPA was to provide a comprehensive solution to the conflicts that had led to the Second Civil War (1983-2005). In fact, the CPA addressed only part of the conflicts and part of the actors affected by those conflicts. Apart from other political parties and movements, the exclusionary character of the agreement concerned whole regions like Darfur, East Sudan, Blue Nile and Nuba Mountains / South Kordofan. The latter two, together with Abyei, were isolated in two shaky protocols defining them as the Three Areas, but details of how and by whom they were negotiated show that these three contested borderland areas along the north-south divide were, in fact, nothing more than objects of bargaining between the GoS, the SPLM/A, and the mediators.<sup>62</sup>

The vague language in the Protocol of South Kordofan and Blue Nile speaks for that fact: 'Popular consultation' was outlined there as a mechanism to ascertain, by way of asking 'the people', as to whether the CPA had met their political, economic, social, and administrative aspirations during the interim period (2005-2011). Definitions of what in fact 'popular consultation' exactly meant and how it should be carried out were not given. Nor was the imminent issue of land rights clearly addressed, nor any issue pertaining to the situation after a possible separation of the south. It was also not specified what the consequences would be if the majority in Blue Nile, South Kordofan, and Abyei rejected the political solutions. Furthermore, the logic of 'power sharing' pervaded the arrangements and already brought in a great deal of inhibiting and inciting circumstances being dealt with today. The same political thinking of bargain and allotments prevented any significant progress towards find sustainable solutions to common problems of administration.

In addition, the political will of the involved actors and agencies never allowed for departure from the narrow frame established by the CPA. The NCP, the SPLM/A, the IGAD, the UN agencies, representatives of several national governments, and the INGOs accepted that the final version of the CPA avoids any tangible arrangement for those areas and their future after a possible separation. We do not argue that this was necessarily preventable in view of the enormous difficulties to achieve a peace agreement between GoS and SPLM/A at all. We do argue, though, that what takes place today is an expression of the same political will on the side of the major actors

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<sup>62</sup> Hilde F. Johnson, one of the main international mediators of the CPA, described in a recent publication how the construct 'Popular Consultation' had been brought in by mediators, when demands of self-determination by the SPLM/A leaders of Blue Nile and South Kordofan threatened to bring negotiations out of the frame of possible demands. Johnson promised that participation in the regional government and peace dividends would give the chance to prevent further marginalization and intimidation. She stated now, however: "None of the promises I made was kept. The international community and donors forgot entirely about these marginalized areas and no peace dividend was paid them. I was later to regret deeply my role in persuading Abd al-Aziz and Malik." (Johnson, Hilde F. 2011. *Waging peace in Sudan. The inside story of the negotiations that ended Africa's longest civil war*. Brighton et. al.: Sussex Academic Press, 132).

that prevented an alternative to be agreed upon or even sought after in the first place.

During peace negotiations, the GOS continued to insist on excluding the three contested areas from the peace talks while the SPLM/A demanded their inclusion, especially its leaders in Blue Nile and South Kordofan, Malik Agar and Abd al-Aziz al-Hilu. Already in 1998, Yusuf Kuwa Mekki expressed the initial position of the Nubal-led SPLM/A in the Nuba Mountains. He insisted that in the event the people of southern Sudan opted for separation in the course of exercising of their right to self-determination, the Nuba should have the following options:

1. to choose to be part of southern Sudan state;
2. to choose to be part of the northern Sudan state; or
3. to choose to have an independent state.<sup>63</sup>

Despite the deadlock in the peace negotiations regarding the three areas, there was a growing conviction that there would be no viable peace without their inclusion in the final peace deal. Due to persistent pressure from the international, regional, and local involved actors, a breakthrough was made when the question of the three contested areas was included in the last stage of peace negotiations and as a consequence in the CPA.

Prior to the signing of the CPA, a US-brokered Nuba Mountains Ceasefire Agreement (CFA) was signed on 19 January 2002 in Bergenstock, Switzerland. Its implementation was successful as it resulted in an almost immediate cessation of hostilities between the warring parties in the region and it guaranteed freer movement of civilians and goods, including humanitarian assistance, across the divide with no serious ceasefire violations to the time of the signing of the CPA.

The concluded CPA includes, among others, the Protocol on the Resolution of the Conflict in South Kordofan and southern Blue Nile States (in short the Protocol). It sets certain modalities and principles as the basis for political, administrative, economic, and social solutions to the conflict in the two contested regions including, among others:

1. the structures of the state government, legislature, and the judiciary;
2. South Kordofan State shares two per cent (2%) in the oil produced in that state, in addition to half of the seventy five percent (75%) of the total fund designated to the war-affected areas;
3. power-sharing in the state during the interim period, allocated as follows: fifty five percent (55%) of the executive and legislative powers to the NCP and forty five per cent (45%) to the SPLM; and
4. the right for 'popular consultation', exercised by the people of the region to assess the effectiveness of the Protocol in redressing their political and socio-economic grievances.

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<sup>63</sup> See Komey, Guma K. 2010. *Land, Governance, Conflict and the Nuba of the Sudan*. Woodbridge & Rochester: James Currey.

Today, after the end of the transitional period, a sizable number of Nuba hold the view that the fundamental question of their identity, territory, and political destiny has not been satisfactorily dealt with in the CPA, neither in theory nor in practice. They feel that the CPA has reduced the Nuba cause of armed struggle and their demand for the right to internal self-determination to an inferior type of political rights termed ambiguously as 'Popular Consultation'. Indeed, the term remains vague, due to its character as a 'stop-gap', as it was silently accepted<sup>64</sup>.

Nevertheless, the CPA was perceived as a positive turning-point in the recent history of political movements of the Nuba people, because it was the first time their grievances had been addressed and to some extent formalized on the level of the state. Moreover, the articulation of a right to Popular Consultation of the people of the region, the maintenance of the SPLA forces, and the participation of the SPLM with forty five per cent (45%) in power-sharing in the region during the interim period were all seen as extremely important, albeit insufficient, political developments.<sup>65</sup>

The following are obvious shortcomings and loopholes in the CPA:<sup>66</sup>

1. Political aspects: The CPA denied the people of the region the right to self-determination for which they were fighting. Instead, their political demands were reduced to an inferior and ambiguous political exercise: 'Popular Consultation' with no predefined procedures and scopes.
2. Economic aspects: The CPA suppressed the right to compensation of local communities, who were and still are affected by expanding mechanized farming and oil extraction on their traditional livelihood bases.
3. Socio-cultural aspects: The CPA ignored the demand to address basic issues of socio-cultural emancipation and self-determined identity, which were systematically subdued under successive central governments, including the perception of the Nuba Mountains as their ancestral homeland.
4. Human rights aspects: The CPA is silent with regard to the atrocities and gross human rights violations amounting to ethnocide committed by the GoS during the war in the Nuba Mountains particularly in the years between 1991 and 1995.

It has to be noted that the Protocol indeed provides two sets of socio-cultural, economic, and politico-administrative arrangements for normalizing the situation during the transitional period and beyond. The first set includes, among others, (i) socio-political accommodation through power- and wealth-sharing, (ii) integration of civil service, police, and judiciary, (iii) creation of an integrated military force formed out of SPLA and SAF, (iv) social reconciliation among different ethnic groups in the re-

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<sup>64</sup> See fn 52. The term had been borrowed from the so-called 'popular consultation' in East Timor / Timor-Leste, which was conducted in 1999 and led to its independence in 2002.

<sup>65</sup> For more details of the whole argument, see Komey, Guma Kunda. 2010. The Comprehensive Peace Agreement and the Questions of Identity, Territory, and Political Destiny of the Indigenous Nuba of the Sudan. *International Journal of African Renaissance* 5 (1): 48-64.

<sup>66</sup> For more details, see *Kauda Communiqué of All Nuba Second Conference held in Kauda, Nuba Mountains*, 6<sup>th</sup>-8<sup>th</sup> of April 2005.

gion, (v) setting up an institutional framework for settling land rights disputes, and (vi) assisting IDPs in returning to their homelands. These arrangements were formulated as preconditions for social and political stability that must prevail before conducting elections and the popular consultation in the region. The reality, however, is that all these fundamental arrangements were hardly met, resulting in an apprehensive situation between the state and local communities, as well as between different communities in the region.<sup>67</sup> The new violent eruption of the old conflict and its possible solution must be seen in this wider context.

The second set of arrangements includes a number of specific political steps in a logical sequence and bound to a specified timing, all aiming at final solutions to the conflicts by way of allowing the people of the region to express their view, through democratic processes, as to whether the CPA is acceptable or not as a final settlement for their political, economic, and socio-cultural questions. This set of steps starts with the population census as a prerequisite for elections, while the election is a prerequisite for the exercise of popular consultation, the final step in all the arrangements. The crux of the matter is that all these processes were intentionally arranged in a way that their implementation would finish *prior* to conducting the referendum in South Sudan and that this very sequence was a crucial part of the CPA. Had these logical procedures been observed, the SPLM, partner in the CPA, could have participated effectively in implementing the arrangements of the Protocol before the south determined its destiny with the referendum.

It is important to also note that the popular consultation as a mechanism to determine the views of the people already contains a self-defeating mechanism. The Protocol stipulates that any shortcomings in the CPA identified by the popular consultation shall be rectified within the framework of the CPA through a negotiated deal between the federal states (Blue Nile, South Kordofan) and the central government. First, it is clear that the right of the people of the region to rectify the CPA, to effectively redress political grievances in the region, is restricted to the CPA's framework. But it is this very problematic framework, which needs to be challenged, if any rectification is to be effective.

Second, the national GoS, which was named the Government of National Unity (GoNO) during the transitional period, was and is dominated by the NCP, with consistent records not only of reluctance to recognize the rights of – in its own view – peripheral people, but also of wide-scale violence against its own citizens, divide-and-rule strategies, and strategic distribution of arms and vehicles to militias<sup>68</sup>. Implementation of agreements with such a political force cannot be based on goodwill

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<sup>67</sup> The detailed delays and violations have been documented in the AEC's annual reports. Already in its mid-term report in 2008, the Commission noted: "Lack of reconstruction and development has a negative impact on integration and security. For wider stabilisation the historical marginalisation of the Nuba needs to be addressed." (*AEC Mid Term Evaluation Report*, 3<sup>rd</sup> of July 2008, p. 32-33).

<sup>68</sup> Alex de Waal had called this strategy 'Counter-insurgency on the cheap' in reference to the most publicized example, the Janjaweed in Darfur (Waal, Alex de. 2004. Counter-insurgency on the cheap. *London Review of Books* 26 (15), 25-27).

and hence call for strong measurements to control and sanction violations. No such measurements ever materialized in a meaningful manner.

In spite of the delay in the overall implementation of the CPA, both parties committed themselves, also unilaterally, strictly to the timeframe of some key events, like the referendum on 9 January 2011, separation of the South on 9 July 2011, and the withdrawal of the UNMIS from the north after the separation. In the case of the Protocol of South Kordofan and Blue Nile, as well as that of the Abyei, the delay had far-reaching negative implications: In South Kordofan, for instance, key provisions of the Protocol remain without implementation or alternative to the present day, namely questions of the customary communal land rights, cultural rights like the promotion of indigenous languages and self-chosen religion, milestones in the Protocol for their prime role in the war.

Another delay concerned the integration of qualified SPLM members into the civil administration, judiciary, police, and security forces. The failure to be included into the administrative system as equal partners, what should be the achievement of the armed struggle, only increased the general frustration as the politics of exclusion continued: exclusion from decision-making processes, exclusion from economic benefits, and exclusion from public services<sup>69</sup>.

These and other frustrations built up successively, until even the small political track of negotiation defined in the Protocol was lost. This is essentially due to lack of *political will and determination* rather than technical or practical constraints. The conviction here is that pushing or allowing the region's key issues to fall from a pre-referendum situation into the time after independence of the South Sudan is an outcome highly welcome to or even strategically intended by the NCP. This analysis indicates that the NCP delayed the above-mentioned pre-referendum issues with the intention of pursuing them alone and on its own political terms at a later stage. This is manifested in the NCP's recent move of defining the SPLM-N a 'foreign force' after the separation of the South Sudan followed by banning its activities as a political party in the Republic of Sudan as of 16<sup>th</sup> of September 2011 coupled with the arrest and harassment of its members and the closure of its offices nation-wide.<sup>70</sup>

Even without sympathy for the political demands as expressed by Nuba leaders and by the SPLM-N, tacit acceptance of such a development by these political forces was an unlikely reaction<sup>71</sup>. Pushing fundamental questions about the future of the Three Areas beyond the formal timeframe of the CPA without agreeing on new

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<sup>69</sup> Flint, Julie. 2008. *The drift back to war. Insecurity and militarization in the Nuba Mountains*. Sudan Human Security Baseline Assessment issue brief, Small Arms Survey.

<sup>70</sup> Several local newspapers reported on 16<sup>th</sup> of September 2011 a press release by the NCP-controlled Council of Political Parties' Affairs. The press release banned 17 political parties (including the SPLM) from conducting their political activities in the Republic of the Sudan on the ground that they are no longer Sudanese entities because their leaders are no longer Sudanese citizens following the separation of the South Sudan.

<sup>71</sup> The book *Proud to be Nuba. Stories of a long struggle* by Nanne op 't Ende (Tilburg: Code X, 2007) gives a panorama of such demands through 36 interviews with political and military leaders of the Nuba Mountains.

arrangements that safeguard acceptable solutions has cumulatively contributed to an inevitable emergence of the on-going violence. This is one of the consequences of the bargaining strategies during the CPA negotiations: the ambiguous status of the Three Areas was accepted as a 'pawn' with respect to the bigger issues of the North-South confrontation, and indulgence in diplomatic language about a project 'united Sudan' took more space than a realistic perspective on inevitable borderlands and their issues.

The CPA defined its own implementation during the transitional period as both political *obligation* and *right* for both the NCP and the SPLM in the GoNU. With the separation, this partnership was comfortably dissolved in 'northern issues' and 'southern issues', leaving behind 'borderland issues' that would require a *joint responsibility*. After the referendum, the two parties increasingly lost interest in continuing their political obligations and focussed on their new rights and problems as governing parties.

For South Kordofan, the separation of South Sudan had a tremendous negative impact. The separation suddenly turned the already troubled region into a socio-economically and politically active borderland with a long, contested internal regional border that is now an international border. It now hosts many of the unresolved issues between the two Sudans: undefined borderlines, oil sharing, the Abyei quandary, northern nomadic pastoralists' grazing lands, and Nuba SPLA forces between the lines. In short, the repercussions of the separation of South Sudan added another complex dimension that exacerbated the already tense situation along economic and social-political divides in the region.



## Part 4: Where does violence come from? – The economic and socio-cultural situation

### *Patterns of economic marginalization and exploitation*

Despite its richness with natural endowments and human resources, the Nuba Mountains region remains one of the most underdeveloped areas nationwide for it has consistently been marginalized and excluded from economic investments, socio-cultural representation, and political participation throughout the postcolonial Sudan<sup>72</sup>. As a promising agricultural region strategically located between southern and northern Sudan, the region has attracted political attention since British colonial rule and even more so after independence in 1956 in view of using the land for major economic bases for the country's agrarian economy<sup>73</sup>.

However, with few exceptions, this policy never resulted in major changes. Paradoxically, this marginalization was also the guarantee for peaceful developments at a very slow pace. This began to change around 1983 with the shift to *sharia* law and escalated into a policy of destruction of Nuba subsistence economies in the early 1990s<sup>74</sup> (see also next chapter). Moreover, rich oil fields discovered and exploited in the south-western part of the region have added more economic, political, and strategic significance to the region at the national and global levels and new layers to the conflicts<sup>75</sup>. The separation of the south has given the region a new geo-political and strategic dimension as it shifts from a mere central area to a borderland zone.<sup>76</sup>

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<sup>72</sup> Kadouf, Hunud A. 2001. Marginalization and Resistance: the Plight of the Nuba People. *New Political Science* 23 (1), 45-63; Rahhal, Suleiman Musa (ed.). 2001. *The right to be Nuba. The story of a Sudanese people's struggle for survival*. Lawrenceville: The Red Sea Press; Komey, Guma K. 2005. The Dynamics of the Marginalization process in Sudan: the Nuba Mountains Case. *The Sudan: the Challenges of Peace and Redressing Marginalization in the Sudan*, edited by Hassan A. Ati. Khartoum: EDGE for Consultancy and research and Heinrich Böll Foundation, 54-87.

<sup>73</sup> Kursany, Ibrahim. 1983. Peasants of the Nuba Mountains region. *Review of African Political Economy* 10 (26):35-44; Battahani, Atta el Hassan el. 1986. *Nationalism and peasant politics in the Nuba Mountains region of Sudan, 1924-1966*. Brighton: University of Sussex; Komey, Guma Kunda. 2010. Land Factor in Wars and Conflicts in Africa: The Case of the Nuba Struggle in Sudan. In *Wars and Peace in Africa. History, Nationalism and the State*, edited by T. Falola and R. C. Njoku. Durham NC: Carolina Academic Press, 351-381.

<sup>74</sup> Jok, Jok Madut. 2007. *Sudan. Race, religion, and violence*. Oxford: Oneworld, 103-113; Hassan, Jamila. 2009. *Conflict and livelihoods in the Nuba mountains of Sudan: anticipated and unanticipated impacts*. Saarbrücken: VDM Verlag Dr. Müller.

<sup>75</sup> Human Rights Watch. 2003. *Sudan, oil, and human rights*. Brussels et. al.: HRW; Patey, Luke A. 2006. *A complex reality. The strategic behavior of multinational oil companies and the new wars in Sudan*. Copenhagen: Danish Institute for International Studies; James, Laura. 2011. From slaves to oil. In *The Sudan handbook*. Ed. By John Ryle et. al. Woodbridge & Rochester: James Currey, 70-84.

<sup>76</sup> See Douglas H. Johnson's recent report, *When Boundaries become borders: the impact of boundary making in Southern Sudan's frontier zones* (London: Rift Valley Institute, 2010).

Land-use patterns in the region traditionally were predominantly two coexisting subsistence systems: rain-fed cultivation, practiced chiefly by the sedentary Nuba, and pastoralism, which is the main way of life for the nomadic Baqqara. Since the 1960s, there has been a successive introduction of modern mechanized rain-fed farming in the region on a modest scale and with little success<sup>77</sup>. Nile Valley traders with strong historical links to the state power elites dominated the mechanized farming and trade businesses<sup>78</sup>.

After independence in 1956, some Nuba realized increasingly that they were being denied access to, and participation in, national power and wealth, coupled with socio-cultural exclusion and the systematic suppression of their identities in the process of postcolonial nation-building. As early as 1957, the region-based political movement of the Nuba Mountains General Union (NMGU) started to voice their grievances in different peaceful forms of resistance against the national state's exclusionary policies.

In 1965, the NMGU, led by the late Fr. Philip Abbas Ghabush (1922-2008), managed to win eight of the thirteen seats allocated to the region in the national parliament. Moreover, in the national election of 1986, they won eight seats allotted to the region in the national assembly in Khartoum. This peaceful political struggle proved fruitless as the entire region remained at the margins of Sudan's economy, culture, and politics while the successive ruling elites of the Nile Valley continued imposing policies of Islamization and Arabization in all fields of life including education, economy, culture, and politics.

During the 1980s, the central government under President Numayri pursued a policy of forced social transformation by introducing in 1983 *sharia*-based laws nation-wide. In the Nuba Mountains, this was accompanied by a policy of land grabbing from small farmers in favour of investors in mechanized rain-fed farming schemes in the region. As a result, numerous members of local communities, particularly sedentary Nuba, became landless in their own homeland, with many young people forced to migrate to urban centres in central Sudan in search of new jobs as cheap labourers.

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<sup>77</sup> Saeed, Mohamed H. 1980. Economic effects of agricultural mechanization in rural Sudan: the case of Habila, southern Kordofan. In *Problems of savannah development: the Sudan case*, edited by G. Haaland. Bergen: Department of Social Anthropology, University of Bergen, 167-184; Manger, Leif. 1988. Traders, farmers and pastoralists: economic adaptations and environmental problems in the southern Nuba Mountains of the Sudan. In *The ecology of survival: case studies from Northeast African history*, edited by D. H. Johnson and D. M. Anderson. Boulder: Westview Press, 155-172.

<sup>78</sup> Battahani, Atta el-Hassan. 1980. *The State and the agrarian question: a case-study of South Kordofan 1971-1977*. Khartoum: University of Khartoum Press; Manger, Leif Ole (ed.). 1984. *Trade and traders in the Sudan*. Bergen: Department of Social Anthropology, University of Bergen; Bascom, Johnathan B. 1990. Food, wages, and profits: mechanized schemes and the Sudanese state. *Economic Geography* 66 (2):140-155; Sultan, Dawood H. 1993. Merchants and a bankrupt state: reflections on contextual imperatives and the genesis of predicament in Kordofan. *African Studies Review* 36 (3):75-94.

In those urban destinations, they were treated as second-class citizens by the same state apparatus that executed a forced deportation campaign, known locally in Khartoum as *kasha*. In this process, pursued on the pretext of a threat to public security and order, Nuba and others with 'African' features, but without identification or employment cards, were often relocated from the capital Khartoum to the outskirts<sup>79</sup>.

When the civil war broke out in the southern Sudan in 1983, some Nuba elites led by Yusuf Kuwa Mekki were ripe for rebellion and joined the SPLM/A in 1984. Since then, the region had been a conflict zone between the SAF and the SPLA, the former bombing villages and hills, the latter using guerrilla tactics. Although the extension of the war from south to north Sudan via the Nuba Mountains was between the state and the Nuba-led SPLM/A, it took a different path at the local level in the region. The fight endangered the Baqqara and blocked off their grazing lands around north-south frontiers. The elected government under Sadiq Al-Mahdi took a chance and portrayed the war in the region as war by Nuba against 'Arabs and Islam' and, therefore, against the local Baqqara in the first place. Baqqara were then recruited and transformed into armed militias with the support of the SAF, then called Sudan Defence Forces, in order to fight a proxy war against SPLA in the region. In fact, many Baqqara militias used this situation to raid Nuba communities, who were not yet part of the SPLM/A.<sup>80</sup>

As the war intensified, the government developed the armed militias into the PDF with a closer link to the SAF; after the coup in 1989, which brought the later NCP under Omar Al-Bashir to power, this policy was continued. In response, Nuba were polarized further, not only against the state, but also against the local Baqqara. In this way, the war took a different path with tensions along the Baqqara-Nuba ethnic divides and with catastrophic consequences for previous forms of cooperation in a shared territory. The Nuba and the Baqqara had co-existed for centuries in South Kordofan and developed both a system of cooperation and competition over resources that always implied violence. Yet, these local forms of violence could always be contained and kept on a low level. This delicate system was completely overrun by the government policy to arm parts of its civilian population and instigate the elimination of another part of the population<sup>81</sup>.

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<sup>79</sup> Africa Watch. 1992. Refugees in their own country. The forced relocation of squatters and displaced people from Khartoum. *News from Africa Watch* 4 (10), July 10; African Rights. 1995. Sudan's Invisible Citizens: The Policy of Abuse Against Displaced People in the North. London; Komey, Guma Kunda. 2002. Internally displaced population (IDPs) of the Sudan and the rights of citizenship. In *Peace, Development and Democracy, National Civic Forum Proceedings*, edited by J. El-Tayeb and Hassan Abdel Ati. Khartoum: The National Civic Forum, 52-69; Assal, Munzoul Abdalla M. 2004. *Displaced persons in Khartoum: current realities and post-war scenarios. A report for MEAwards*. Cairo: The Population Council.

<sup>80</sup> See, for example, Africa Watch. 1991. *Destroying ethnic identity. The secret war against the Nuba*. London; Africa Watch. 1992. *Eradicating the Nuba*. London, African Rights. 1995. *Facing Genocide: the Nuba of Sudan*. London.

<sup>81</sup> Mohamed Suliman. 1999. The Nuba Mountains: Resource Access, Violent Conflict, and Identity. In *Cultivating Peace: Conflict and Collaboration in Natural Resources Management*, ed. Daniel Buckles. Ottawa: IDTC and World Bank Institute, 205-220.

The previously shared territory was now progressively divided along ethno-political lines into two heavily militarized administrative zones: (i) areas controlled and administered by the Nuba-led SPLM/A with the Baqqara nomads having no access to their traditional seasonal grazing land and water in the part of the region; and (ii) areas controlled and administered by the Islamic-based GoS with Khartoum's elites and Baqqara having the upper hand in public affairs.

In a parallel development, the central government started to concentrate populations in its areas in euphemistically called 'peace villages' to control the movements and communication of the civilians. The military strategies became more radical on both sides, but a major push was the declaration of *jihad* in 1992, which marked any political opposition against the government as apostasy and unleashed a bloody hunt of Nuba intellectuals, among others (see next chapter). A different strategy – launched in 1997 after several failures to resolve the conflict militarily – was to establish 'peace from within' by agreements with single political and military leaders, yet this too had only a limited impact, since the SPLM/A-NM had established a stable position in its areas.

The CFA of 2002 and the CPA of 2005 put these direct confrontations on hold, although the bitterness and lost trust in previous and new institutions of conflict resolution led to violent clashes sporadically. This concerns not only Nuba-Baqqara and SPLA-SAF conflicts, which often overlapped, but also inter- and intra-communal fights. The years of violence and insecurity had corroded the social fibre from within and only the experience of a ceasefire and initiatives of reconciliation started to re-establish a sense for peaceful coexistence. Some developments indicate that some new chances for emancipation, new trade opportunities and new freedoms of cultural expression had emerged<sup>82</sup>.

But most of all, a strong conviction remained that only a powerful military backing is a reliable foundation for demands of rights, participation, and sharing.

### *Patterns of suppression of ethnic and cultural identity*

As a social world, the region represents at least three major features of the contemporary Sudan: It demonstrates the African and Arab character of Sudanese society and culture; it signifies the unequal and exploitative forms of centre-periphery relations within, and it manifests the consequences of political marginality. The region is predominantly inhabited by a cluster of sedentary Nuba peoples who identify themselves as indigenous to the region. Despite their statistical majority, the Nuba constitute a political minority due to their social and economic marginalization since the pre-colonial and colonial times up to the present day.

A critical review of Nuba history shows that the area was subjected to a series of violent phases by successive external forces, namely: (i) forced subjugation and

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<sup>82</sup> These developments are presently studied by the authors' 4-year research project *Market institutions in the relation of nomadic and sedentary people of South Kordofan/Nuba Mountains region* (2008-2012), funded by the German Research Foundation.

suzerainty by the Fung and Tegali Kingdoms during the sixteenth century<sup>83</sup>; (ii) mass displacement and forced relocation following the penetration of Baqqara Arabs to Kordofan as early as in the 1800s (see fn 81); (iii) enslavement and further displacement during the Turco-Egyptian era (1821-1885)<sup>84</sup>; (iv) further social and spatial disturbances brought about by the Mahdiyya movement in the 1880s<sup>85</sup>; (v) the negative impact of the closed district policy (1922–1939) imposed by the British colonial rule in the area<sup>86</sup>; and (vi) persistent policy of forced social transformation through Arabization and Islamization<sup>87</sup>, coupled with multiple forms of political, socio-cultural, and economic marginalization and exclusion by the successive national political regimes<sup>88</sup>, dominated by the elites of the Nile Valley, and culminating in attempts to fully displace and eradicate the Nuba between 1991 and 1995<sup>89</sup>. The going concerns

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<sup>83</sup> Ewald, Janet J. 1990. *Soldiers, traders, and slaves: state formation and economic transformation in the Greater Nile Valley, 1700-1885*. Madison: University of Wisconsin Press; Spaulding, J. 1987. A premise for precolonial Nuba history. *History in Africa* 14, 369-374; Battahani, Atta el Hassan el. 1986. *Nationalism and peasant politics in the Nuba Mountains region of Sudan, 1924-1966*. Brighton: University of Sussex.

<sup>84</sup> MacMichael, Harold Alfred. 1912/1967. General history of Kordofan. In *The tribes of Northern and Central Kordofán*. London: Frank Cass, 3-50; Prunier, Gérard. 1992. Military slavery in the Sudan during the Turkiyya (1820-1885). In *The human commodity: perspectives on the trans-Saharan slave trade*, edited by E. Savage. London: Frank Cass, 129-139.

<sup>85</sup> Stevenson, R. 1984. *The Nuba peoples of Kordofan province: an ethnographic survey*. 1 ed, *Graduate College Publications Monograph, 7*. Khartoum: Graduate College Publications University of Khartoum.

<sup>86</sup> Ibrahim, Ahmed Uthman Muhammad. 1985. *The dilemma of British rule in the Nuba Mountains 1898-1947*. Khartoum: University of Khartoum; Nasr, Ahmed Abdel Rahim. 1971. British policy towards Islam in the Nuba mountains, 1920-1940. *Sudan Notes and Records* 52, 23-32; Salih, Kamal Osman. 1990. British policy and the accentuation of inter-ethnic divisions: the case of the Nuba mountains region of Sudan, 1920-1940. *African Affairs* 89 (356), 417-436; Willis, Justin. 2003. Violence, authority, and the state in the Nuba Mountains of condominium Sudan. *The Historical Journal* 46 (1), 89-114; Sanderson, Lilian. 1963. Educational development and administrative control in the Nuba mountains region of the Sudan. *The Journal of African History* 4 (2), 233-247.

<sup>87</sup> Manger, Leif. 2001-2002. Religion, identities, and politics: defining Muslim discourses in the Nuba Mountains of the Sudan. *Journal of Arabic and Islamic Studies* 4:111-131; Sharkey, Heather J. 2008. Arab Identity and Ideology in Sudan: The Politics of Language, Ethnicity, and Race. *African Affairs* 107 (426), 21-43.

<sup>88</sup> Saavedra, M. 1998. Ethnicity, resources and the central state: politics in the Nuba Mountains, 1950 to the 1990s. In *Kordofan invaded: peripheral incorporation and social transformation in islamic Africa*, edited by E. Stiansen and M. Kevane. Leiden: Brill, 223-253; Battahani, Atta el Hassan el. 1998. On the transformation of ethnic-national policies in the Sudan: the case of the Nuba people. *Sudan Notes and Records* 2, 99-116; Komey, Guma Kunda. 2009. Striving in an Exclusionary State: Territory, Identity and Ethno-politics of the Nuba, Sudan. *Journal of International Politics and Development* 7 (2), 1-20.

<sup>89</sup> Mohamed Salih, Mohamed Abdel Rahim. 1995. Resistance and response: ethnocide and genocide in the Nuba Mountains, Sudan. *Geojournal: an international journal on human geography and environmental sciences* 36 (1), 71-78; African Rights, ed. 1995. *Facing genocide: the Nuba of Sudan*. Edited by R. Omaar and A. d. Waal. London: African Rights; Burr, Millard. 1998. A working document II: quantifying genocide in the southern Sudan and the Nuba Mountains, 1983-1998. Washington DC: U.S. Committee for Refugees.

of all these systematic violent phases were and still are *territory, identity and self-determination*<sup>90</sup>.

Two observations allow for an understanding of the genesis of the major conflicts in the Nuba Mountains as entanglements of the following underlying dynamics:<sup>91</sup>

1) The origin and history of the political tensions in the region are not only related to the systematic exclusion of Nuba from political participation and to a lack of state-sponsored development initiatives and public services. A crucial question is anchored in a persistent discrimination of the region's cultural and political identity from central policies of nation-building. In sharp difference to the programme of Islamization and Arabization – the main ingredients of successive central governments' ideology mainly after 1983 – the Nuba Mountains and other marginalized regions (Blue Nile; Eastern Sudan / Beja; Northern Sudan / Nubians; Darfur) are homelands for people of diverse origins, languages, cultures, and religions.<sup>92</sup>

The bone of contention is here that the main aspects of the non-Islamic and non-Arab elements of identity are not only hardly recognized by all successive central governments especially after 1983, but excluded systematically in the nation-building process to the extent that forming a Sudanese national identity is essentially pursued by Arabization and, concomitantly, Islamization. Thus, economic underdevelopment and exclusion from political participation are intrinsically linked to socio-cultural discrimination by the political elites for the Nile Valley and the governments they form.

2) Conflicts in the marginalized region of the Nuba Mountains have always been in the form of resistance against the ruling clique at the centre of power in Khartoum and its allies in the province. Central governments have developed a long tradition of skilfully redirecting the protest in a divide-and-rule manner. They successfully displace the conflict to appear as a matter between competing local interests and they successfully create the impression that these interests were routed in ethnic divides.

In the Nuba Mountains region, this is the alleged dichotomy Nuba versus Baqqara (African farmers versus Arab pastoralists). Seen from the outside, Nuba and

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<sup>90</sup> Komey, Guma Kunda. 2010. The Comprehensive Peace Agreement and the Questions of Identity, Territory, and Political Destiny of the Indigenous Nuba of the Sudan. *International Journal of African Renaissance* 5 (1), 48-64; Manger, Leif. 2001. The Nuba Mountains: battlegrounds of identities, cultural traditions and territories. In *Sudanese society in the context of war: papers from a seminar at the University of Copenhagen*, edited by M.-B. Johannsen and N. Kastfelt. Copenhagen: University of Copenhagen, 49-90; Mohamed Salih, Mohamed Abdel Rahim. 1998. Other identities: politics of Sudanese discursive narratives. *Identities: global studies in culture and power* 5 (1), 5-31.

<sup>91</sup> Douglas H. Johnson has described this complexity as 'multiple civil wars', whose number increased significantly in the 1990s (Johnson, Douglas H. 1997/2003. *The root causes of Sudan's civil wars*. Oxford: James Currey, 127-142).

<sup>92</sup> Several studies show that the local integration of different cultural elements and the development of a sense of nation can co-exist; for the Nuba Mountains for instance Baumann, Gerd. 1987. *National integration and local integrity: the Miri of the Nuba Mountains in the Sudan*. Oxford: Clarendon Press.

Baqqara should in fact be in the same position vis-à-vis central government policies of economic marginalization coupled with a consistent practice of land grabbing in favour of commercial mechanized farming and oil exploitation with no direct benefits to local communities, both sedentary farmers and nomadic pastoralists. This policy has always been of equal damage to the livelihoods of both groups.<sup>93</sup>

The crucial question is, thus: Why have politically active members from the two groups been unwilling or unable to pursue jointly what is apparently their common interest? Why do they not confront the central governments' damaging policy in their region? The answer seems to lie in the domain of socio-cultural identity. Baqqara support the Islamic and Arab orientation of the central governments mainly for religious and socio-cultural reasons, hoping that this loyalty will also result in economic advantages. However, the central governments have other priorities – modernizing the agricultural sector of the region – and these are to the detriment of the pastoralists. The Nuba political movement, however, conceives the political strife in terms of socio-cultural identity and also does not recognize common economic interests with Baqqara.

In sum, one tragic development of the last war (1985-2002) in the Nuba Mountains was that the main war parties successfully shifted the conflict from being one between the regimes in Khartoum versus the SPLM/A to one being between Nuba and Baqqara, the two disadvantaged communities of the region that were seduced into fighting each other for reasons generated by the main antagonistic powers.

To widen the gap between these two local groups and refuel the war, the NCP regime also mobilized religion by declaring a *jihad* against the Nuba-led SPLM/A. This declaration was remarkable also, because a substantial number of the Nuba recruits in the SPLA and many civilians in the SPLA-controlled areas were Muslims. It was justified by a special *fatwa* (an Islamic decree) issued in El Obeid on 27 April 1992 that extended the definition of apostasy to include all those who are against the Islamic government of the Sudan, since Allah legitimized it. Since all Nuba were classified as opponents of the government they all were apostates by this definition and had to be killed.<sup>94</sup>

The obvious aim was not only to defeat the SPLA forces but also to forcefully and radically transform the Nuba societies by destroying their cultural identity. The *jihad* implied a complete isolation of the region from any international support and –

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<sup>93</sup> Komey, Guma Kunda. 2010. *Land, governance, conflict and the Nuba of Sudan*. Woodbridge & Rochester: James Currey.

<sup>94</sup> Translations of this *fatwa* were reproduced and discussed in Manger, Leif. 2001. The Nuba Mountains: battlegrounds of identities, cultural traditions and territories. In *Sudanese society in the context of war: papers from a seminar at the University of Copenhagen*, edited by M.-B. Johannsen and N. Kastfelt. Copenhagen: University of Copenhagen, 49-90; Waal, Alex de. 2006. *Averting genocide in the Nuba mountains, Sudan*. Social Science Research Council, 22 December 2006 ([http://howgenocidesend.ssrc.org/de\\_Waal2/](http://howgenocidesend.ssrc.org/de_Waal2/), retrieved 12-09-2011); Varhola, Christopher H. 2007. Cows, Korans, and Kalashnikovs: The multiple dimensions of conflict in the Nuba Mountains of Central Sudan. *Military Review* 87 (3), 46-55.

besides systematic killings mainly of the Nuba elite in Kadugli and elsewhere – was also a genocide by attrition, for it produced isolation, severe hunger, diseases, collective displacement, forced relocation and mass fatalities among the region’s population.<sup>95</sup>

The CFA in 2002 and the CPA in 2005 brought only a short halt to these recurring cycles of destruction. None of the two main political forces made a successful attempt to transform the polarized, antagonistic political landscape into one of non-violent political contest. If the historically grown constellations do not change fundamentally, the recurrence of wars is very likely to continue.

The separation of South Sudan makes it even more unlikely that a durable solution will be found. The NCP’s explicit political position and their first actions during and after the separation of South Sudan is to establish an exclusionary state guided by Islamic law without regards to socio-cultural and religious diversity inside the country. Omar Al-Bashir’s public speech in Gadarif State on 19<sup>th</sup> of December 2010 was a landmark in that direction. He declared that

[i]f South Sudan secedes, we will change the constitution and at that time there will be no time to speak of diversity of culture and ethnicity. [...] Sharia and Islam will be the main source for the constitution, Islam the official religion and the Arabic the official language.<sup>96</sup>

This official statement by northern Sudan’s president conveys a clear message to the non-Arab and non-Muslim communities in different parts of the northern Sudan, mostly in the Nuba Mountains in Southern Kordofan, the Funj, Ingessana and Uduk in southern Blue Nile, the Beja in the east, and the Fur and the Zaghawa, among others, in the west. The conveyed message is that they should either submit to an inevitable cultural assimilation, i.e. abandon their non-Arabic and non-Muslim identities, or else face systematic exclusion or even annihilation. The nature and trend of the on-going war in the Nuba Mountains, Blue Nile, and Darfur is a manifestation of this declared policy.

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<sup>95</sup> Fein, Helen. 1997. Genocide by Attrition 1939-1993: The Warsaw Ghetto, Cambodia, and Sudan: Links between Human Rights, Health, and Mass Death. *Health and Human Rights* 2 (2), 10-45.

<sup>96</sup> <http://af.reuters.com/article/topNews/idAFJ0E6BI04I20101219> (retrieved 11-09-2011).



## **Conclusion: The genesis of recurring wars in Sudan**

Our analysis shows that the recurrence of war in Sudan does not result from the dominance of one or the other political force. Violence and destruction rather became an established part of politics because all dominant political players operate mainly militarily. This causes a spiral of confrontations and polarizations. Until now no effective steps have been taken to fundamentally change this pattern. The tragedy for the main part of Sudan's population is to be entangled in this constant polarization with no alternatives in sight. In consequence, only a radical change of the rules of the game can be a way out.

This means that a discussion of technicalities, for instance concerning elections or popular consultations, is off the point. The last election in South Kordofan was bound to fail not because of technical flaws, but because it was treated as zero-sum game between two parties, NCP and SPLM/A. Accordingly, the forms of ethno-political mobilization exercised during the war were perpetuated and further stabilized.

This perpetuation of war logic prevented the development of plural voices and new ways, which are needed for non-violent political alternatives to historical injustices and inequalities. Instead of political mobilization around issues and regional interests, the hard lines of identity drawn by violence and war were forcibly maintained. In conclusion, the unceasing militarization of society will continue to inhibit breaking the vicious cycle of fragile peace and recurring wars.

## Update December 2015

The last four and a half years brought both an unabated continuation of violent conflicts along Sudan's southern border regions and important shifts compared with the pre-CPA war. This update outlines how situations have persisted and changed according to four key aspects: access to information, everyday life of the civilian population, military developments, and political stances.

### *Information*

Since the beginning of the war, news published online and occasional journalistic coverage remained the main source of public information on events in the Nuba Mountains. However, the quality and extent of these sources has significantly increased, and several reports by local journalists and non-governmental organizations have decisively expanded the scope of information available to the general public.

The journalists of Nuba Reports (also Eyes and Ears Nuba) provide constant coverage from areas not under SAF control through short reports and videos, supported by other documentaries, such as 'Beats of the Antonov', and new region-oriented platforms, such as Nuba Times and, going beyond its original focus on Darfur, Radio Dabanga. Occasional journalistic tours or other forms of attention brought articles and reports to Reuters, The Guardian, The New York Times, etc., while the speakers of the main armed forces, now also including the so-called Rapid Support Forces, produced an endless stream of contradictory claims of victories. International attention, considering large-scale media outlets such as Xinhua or CNN, often tended to take up single events, which tend to be attacks by SPLM-N forces on civilian areas in government-controlled areas, especially the state capital Kadugli. The close to constant aerial bombardments are not covered in these sources.

Apart from the dispatches of SUNA and other reports on the humanitarian and general situation in South Kordofan from the governmental perspective, several national NGOs are involved in humanitarian assistance for displaced populations in the government-controlled areas, but in both cases only very little information reaches the general public from this direction. Reports by UN agencies, such as OCHA, were very much dependant on such sources, though. In the areas under SPLM-N control, a South Kordofan-Blue Nile Coordination Unit has been established, which provides statistical and narrative assessments of the needs and shortages among the population there; those can occasionally be found online.

Reporting by international organizations has been largely restricted in access to direct investigation, with the notable exception of the reports by the Small Arms Survey and the International Peace Information Service (IPIS). Larger reports on the situation of the civilian population have also been published by Amnesty International and the Enough Project; some coverage has been done by Human Rights Watch in 2015. International organizations active in SPLM-N-controlled areas seldom

provide public reports on their activities, for obvious reasons; some, such as Cap Anamur/German Emergency Doctors, provide updates on their websites.

Parallel to the production of such reports, the first academic reflections have taken place as well, partially with a strong activist component.<sup>97</sup>

### *Everyday life*

What emerges from public and private information is that while some patterns of population movements are similar to the previous war, such as a widespread retreat to caves for shelter, there are other patterns that are strikingly different.

Noticeably, unlike the first war, the affected civilians on the frontlines developed new survival mechanisms in response to the new and more sophisticated war machinery used in the second war. Survival mechanisms and responses can generally be categorized into actions taken towards physical survival, economic and cultural identity. Accessing resources from the mountains of their homeland is one of the most important survival mechanisms employed by the civilians in the war zone. Apart from hiding in caves during the fighting or bombing, Nuba civilians resort also to resourcing the border as another survival strategy through long range spatial mobility. The significant difference between the first and the second war in the Nuba Mountains is manifested in the changed direction of the geographical (spatial) movement of the affected population.

The large-scale movement of people from the Nuba Mountains to northern cities, especially the capital, is very limited. Those who went north often stayed close to the mountains, in Um Ruwaba, Abu Karshola, El Obeid or even inside South Kordofan, or were individuals joining their families. During the first war, most of the affected communities moved northwards seeking refuge as IDPs in the Sudan government-controlled areas while some remained in their own homeland in the SPLA-controlled areas. There were almost no waves moving southwards to southern Sudan. As IDPs, they experienced gross violations. People from the Nuba Mountains were fleeing from an armed rebellion in the first war, and taking refuge in 'the government's' cities was connected to the expectation of being treated as victims of a conflict. However, the marginalization and hostile targeting that followed their arrival marked a migration out of the frying pan and into the fire. This was recently repeated for those who made the decision to go north ending up in guarded refugee camps in El Obeid and Bara and subjected to constant security checks. In the meantime, the insecurity they fled was brought into the area by the Rapid Support Forces, and the

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<sup>97</sup> E.g. Komey, Guma Kunda. 2013. The Nuba political predicament in Sudan(s): seeking resources beyond borders. In *The borderlands of South Sudan: authority and identity in contemporary and historical perspectives*, edited by Christopher Vaughan, Mareike Schomerus and Lotje de Vries. New York: Palgrave Macmillan, 89-108; Komey, Guma Kunda. 2014. 'Popular consultation' as a mechanism for peaceful social order in the Nuba Mountains / South Kordofan? In *Emerging orders in the Sudans*, edited by Sandra Calkins, Enrico Ille and Richard Rottenburg. Bamenda: Langaa, 251-270; Totten, Samuel, and Amanda Grzyb, eds. 2014. *Conflict in the Nuba Mountains*. London: Routledge.

discrimination that caused people to take up arms in the first place was experienced all over again. The recruitment of the local population into such forces, also through the Native Administration system in Khartoum, further complicates the social relations and the socio-cultural definition of victims and perpetrators.

What had been a relatively minor phenomenon during the first war – seeking refuge in southern countries, such as Kenya, Uganda and, for a time, Ethiopia – concerns now a majority, and in South Sudan, large-scale refugee camps came into existence, Yida being the largest. At present, the mobility of people, ideas, goods and services across the border is a clear strategy along the new international border at the Nuba Mountains. They are seeking refuge and security due to the intensity of conflict in their homeland, particularly air bombardments by the government of Sudan. The Yida refugee camp, 12 miles inside South Sudan, with a population of more than 80,000 is an illustrative feature of war affected people seeking refuge and security through spatial mobility beyond the border.

Three key factors played a decisive role in this reversed pattern of people movement as a survival strategy. First, the legacy of the shared armed struggle with the people of South Sudan during the first war, the promoted sense of social belonging and political attachment to South Sudan rather than to Sudan. Second, for the Nuba IDPs, the independence of South Sudan gave them a sense of security and protection across the border since it is beyond the reach of the government of Sudan. Third, the legacy of the previous war and its painful memories suggests that it is better for the affected people to seek refugee status or even alternative citizenship in South Sudan than to expose themselves to the risk of another massive violation of human rights similar to that experienced by the IDPs in the government-controlled areas during the first war (1987-2005) in the region. In a nutshell, the war affected communities continue resourcing the border for their own physical survival despite its internationalization after the separation of South Sudan. But at the same time, this survival is marked by the psychological effects of violent displacement, as well as disrupted social relations and belonging.

An economic survival mechanism is the utilization of social media technologies and mobile phones for economic transactions including money transfer and for the exchange of information between the divided members of families. They are being deployed not only as communicative devices but also serve as financial transferring media to support the disconnected family members along the two sides of the border.

The strife for cultural survival is a further element of everyday life. Armed resistance is not the only form of defiance that is brought against the continued longer history of discrimination and marginalization we had outlined in our 2011 text. The proud self-representation of Nuba people flourishes even under these circumstances; be it in cultural festivals or other events in the capital or the revival of socio-cultural practices in refugee camps and war-affected areas.

Nevertheless, the suffering increases with time passing and boundaries between enemies are drawn more definitively by political leaders, while there are in-

creasingly complex socio-cultural relations at play. In any case, the on-going war has done everything to exacerbate the dynamics of polarization between the region and the central government – and the people perceived as associated with the one or the other.

### *Military developments*

At the same time, some of the ethno-political developments seem to have changed radically. One of the main features of the previous war was the Baggara militias' fighting against SPLA and 'fifth column Nuba' since the government of Sadiq al-Mahdi had armed and incited them. What can be observed now is that significant Baggara communities are living inside SPLM-N-held areas without animosity. On the contrary, active peace efforts are being practised between Baggara and Nuba through cooperation and intercommunal agreements.

Due to failure of recruiting close-by communities, the aforementioned 'counter-insurgency on the cheap', meant that new mobile groups had to be formed, now on the basis of Darfur's *janjawid*, composed of the so-called Border Guards and other para-military forces named Rapid Support Forces and put under the umbrella of the National Intelligence and Security Service (NISS). In January 2015, they were declared part of the legal armed forces, although their direct administration remained under NISS. These troops were sent throughout Sudan, for various operations in Darfur, South Kordofan and Blue Nile, camping outside major cities, such as El Obeid and Khartoum, and engaging in intimidating and sometimes criminal activities such as highway robbery, kidnapping, murdering and raping, or guarding the government's attempt to control gold mining, e.g. in Abu Hamid.

In the Nuba Mountains, these forces engaged SPLM-N directly, but with limited depth, often also attacking civilian populations, especially women. In general, governmental aerial airstrikes continued, aimed at or at least affecting civilian more than military targets. But the invasive governmental presence of the previous war, with the resettlement of the rural population in so-called peace villages, does not seem to have occurred this time. The government's and SAF's annual vows to 'crush the rebellion', and then Governor Ahmed Haroun Kafi's notorious order to 'leave no prisoners' seem only for a public display of decisiveness, in spite of a military strategy that can be called a 'containment strategy'.<sup>98</sup> This was supported by the split of West Kordofan in late 2013, which left the war-affected areas in a much smaller South Kordofan.

On the SPLM-N side, an attempt to expand military presence and impact seemed to have materialized in the formation of the Sudan Revolutionary Forces (SRF). But Abd al-Aziz al-Hilu's appointment as commander over the forces joining SRF, among them JEM, never amounted to full military leadership. Rather playing out as a loose cooperation, the SRF frame could not prevent eventual tensions with JEM,

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<sup>98</sup> Steven Spittaels, and Yannick Weyns. 2014. *Mapping conflict motives: the Sudan – South Sudan border*. Antwerp: International Peace Information Service (IPIS).

which had to do with questions of military strategy and soldiers' conduct against civilians.

This became clearest in developments around the attack on Abu Karshola. JEM leaders had demanded the SRF to prepare for attacks on major targets in government-held areas, in this case, the airport in El Obeid. Abd al-Aziz, on the other hand, favoured occasional attacks on approaching governmental forces and the protection of held areas, and he was specifically against attacks on urban areas, where casualties among soldiers and civilians would be high, and because governmental retaliation would focus on the population from the Two Areas residing under their control. The compromise was an agreement to merely capture fuel from Um Ruwaba; but tensions with JEM continued and led to a more or less clear split when the planned rotation of SRF leadership was to be implemented in 2015. As a result, JEM began to operate in regions beyond Abd al-Aziz's grasp, showing up in South Sudan and northern Sudan, e.g. Ḥufrat Naḥās.

None of these developments leave much hope that war and violent conflict will come to an end any time soon, especially considering the continuing stalemate at all diplomatic efforts.

### *Political stances*

The military containment strategy goes hand-in-hand with the NCP government's insistence on framing the armed conflict in reference to the Two Areas, in direct contradiction to SPLM-N's official political demands. The latter shows a major shift in the SPLM-N's official approach to solutions, which resounds with the original manifesto of the SPLM.

There is a rapidly decreasing importance of the CPA and the Protocol on the Two Areas as a reference point in political demands and negotiations. The beginning of the war could still be related to the failure to implement the CPA and the popular consultations or to the failed legitimacy of the elections that were supposed to end the transitional period.<sup>99</sup> The SPLM-N's focus was then clearly on finding solutions for problems pertaining to the Two Areas, as witnessed by the content of the Addis Ababa Framework Agreement of 28 June 2011.<sup>100</sup>

In negotiations between the central government and SPLM-N, or the newly formed Sudan Revolutionary Front (SRF) – slowly emerging amidst militarist statements from both sides – the former maintained its narrow focus on the Two Areas. This stance is thrown into question by repeated vows to end the rebellion militarily, probably also the main reason for the presidential annulment of the Addis Ababa agreement where SPLM-N had still accepted the narrow focus. Now, the SPLM-N displays a much more ambitious political programme that calls for nothing less than

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<sup>99</sup> Guma Kunda Komey. 2014. 'Popular consultation' as a mechanism for peaceful social order in the Nuba Mountains / South Kordofan? In *Emerging orders in the Sudans*, edited by Sandra Calkins, Enrico Ille and Richard Rottenburg. Bamenda: Langaa, 251-270.

<sup>100</sup> <[http://www.sudantribune.com/IMG/pdf/Two\\_Areas\\_Agreement.pdf](http://www.sudantribune.com/IMG/pdf/Two_Areas_Agreement.pdf)>, accessed 17 March 2016.

a comprehensive political solution for all of Sudan, perhaps in part due to four years of holding a territory militarily.

However, far from being a univocal position among the armed resistance groups, there are several counter-positions or at least caveats among the lower and middle ranks, which reflect old and new tensions in the movement and around it. The national agenda is most represented by Yasir Arman and Malik Agar, who lead the international presence of the movement. Among those with a persistent regional focus on the Nuba Mountains are Ismail Jallāb in Juba, who proceeded Abd al-Aziz Al-Hilu as (Deputy) Governor of South Kordofan but never achieved significant political weight, and Telefūn Kuku, who had been at odds with SPLM leadership throughout the transitional period, claiming the marginalization of Nuba issues in SPLM's political steps. Other formerly influential leaders, such as Daniel Kodi and Tabitha Butrus, have been side-lined concerning political developments in South Kordofan by accepting NCP control as members of the weak SPLM-Peace Wing.

Abd al-Aziz Al-Hilu, who is one of the few members with high political *and* military legitimacy, is a strong example of ensuing contradictions. In August 2015, he was released from the position of SRF General Commander, but maintained his position as Vice Chairman of SPLM-N, in an apparent attempt to boost his presence in the political arena. Abd al-Aziz had been central for issues around the Two Areas in the CPA negotiations, but then left Sudan for some years. From 2011, he served as military commander for the first four years of the war in the Nuba Mountains.

His concentrating on a political role may be interpreted as a reaction to tensions around the situation brought about by a political focus on a national agenda. Even among those supporting a national agenda, there are demands emerging from the Nuba Mountains to form, accordingly, a national armed movement, where all regions of Sudan are represented by soldiers, even if only with small numbers of them. This also stems from the impression that military successes in the Nuba Mountains did not lead to visible political weight in the opposition, and, however justified this impression is, Abd al-Aziz's presence in South Africa in August 2015 for the negotiation of an agreement might be due to such pressure from below. The South Africa Agreement stipulated the withdrawal of all non-South Sudanese troops from South Sudan, which, if implemented, initiates a period where other areas in Sudan may become the focus of SPLM-N's military presence.

Another concern voiced about a national agenda, and the dominance of non-Nuba in its propagation, was the lack of progress on the issue of humanitarian assistance. Since deadlocked negotiations meant more suffering for the population of the Nuba Mountains, relentlessly attacked from the air and blocked from many sources of external supply, the national agenda appears to be fought for at the expense of this population. The tendency of the two hostile parties (GoS and SPLM-N) to disagree on everything became clear over how to allow humanitarian access to the region. In one instance humanitarian aid was not permitted because the GoS insisted on a ceasefire agreement before allowing combined humanitarian access and peace negotiations, with SPLM-N taking the opposite position. In another case, a cessation

of hostilities declared by GoS in November 2013 to allow humanitarian assistance was refused by SPLM-N, which insisted on a formal ceasefire agreement.<sup>101</sup>

### *Conclusion*

The issues nourishing armed conflict in the Nuba Mountains have now become centre-stage to the (im)possibility of negotiated solutions, a situation opposite to the CPA negotiations. Even if a national agenda is put forward, South Kordofan is one of the central, although now territorially reduced testing grounds for a non-military, non-violent political contest in Sudan. This includes the question if more can be achieved than keeping political antagonists physically apart, as happened successfully after the Ceasefire Agreement of 2002, followed by eventual failure of political partnership (2005-2011).

While the CPA's bilateral negotiation and setup has clear shortcomings in the complex landscape of political forces and demands in Sudan, it can still serve as a model in its composite, but integrated structure. Rather than deciding for either a national or a regional perspective, both can be pursued in parallel negotiation, since one can only function together with the other. The CPA was not comprehensive, since significant conflicts in northern and South Sudan were left out to accommodate bilateral power-sharing between two conflict parties. The failure of the East Sudan Peace Agreement (ESPA, 2006) and the Darfur Peace Agreement (DPA, 2006) goes back to their disconnection from issues of governance at the national level. Both call for integrative national and regional accords that put an immediate end to the numerous armed conflicts, but also change the way conflicts are addressed by the central government and its opposition, including the distributive injustice and political oppression that incite these conflicts.

Such a composite agreement precludes trust that all parties will commit to further negotiation even after partial agreements that may cover a party's immediate priorities. This means not only the creation of a permanent institution of negotiation, which does not end with signatures on some documents but becomes a constant political tool of communication. This requires also clearly defined repercussions for a lack of commitment. The probability that such an institution and the trust it requires coming about seems low; as Abel Alier once formulated, too many agreements have been dishonoured,<sup>102</sup> already before the present government interrupted a peace agreement in the making in 1989 and unilaterally scratched a signed agreement in 2011.

With all the changes that have occurred, we have to diagnose at the end of this update, as in our original report, that without an end to the militarization of politics and the confrontational approaches it fosters there is little hope of sustainably improving lives in the Nuba Mountains, and bring an end to recurring wars in Sudan.

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<sup>101</sup> Steven Spittaels, and Yannick Weyns. 2014. *Mapping conflict motives: the Sudan – South Sudan border*. Antwerp: International Peace Information Service (IPIS), 28.

<sup>102</sup> Abel Alier. 1990. *Southern Sudan. Too many agreements dishonoured*. London: Ithaca Press.