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THE ROLE OF INTERNATIONAL
ORGANISATIONS AND MAJOR POWERS
IN THE SOUTH-SUDAN CRISIS

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**The role of international organisations and major powers in the South-Sudan
crisis**

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“From here the Earth is beautiful, without barriers and borders.”

Yuri Gagarin

| | |
|---|------------|
| Introduction | 4 |
| 1. The birth of Sudan and the first civil war | 9 |
| From Napoleonic wars to British colonization (1805-1889) | 10 |
| The Anglo-Egyptian Condominium | 14 |
| From WWII to Independence | 16 |
| The first Sudanese civil war (1956-1973) | 20 |
| Chapter conclusion: the non-war period (1972-1983) | 30 |
| 2. The role of the international community in the second Sudanese civil conflict | 36 |
| The second Sudanese Civil war until the end of the Cold War (1983-1989) | 36 |
| UN Operation Rainbow and Operation Lifeline (1986-1990) | 41 |
| The start of peace process | 45 |
| The role of IGAD and major powers during first phase of Peace process (1988-1997) | 47 |
| Drafting the CPA agreement (2001-2005) | 53 |
| The UNMIS | 59 |
| 3. The role of the international community in resolving the internal conflicts in South Sudan | 64 |
| CPA interim period | 64 |
| The CPA players' relationship with UNMIS | 71 |
| The role of international regional organisations during the CPA period | 74 |
| China's role player | 79 |
| The South Sudan Independence | 82 |
| The role of organisations and the international community in the current South Sudanese crisis | 84 |
| IGAD as mediator of the conflict | 88 |
| The limits of African Union in conflict resolution | 94 |
| UNMISS from state building to protecting people | 98 |
| China's role in civil conflict and the protection of economic interests | 103 |
| An agreement without stationary peace | 106 |
| 4. The humanitarian crisis in South Sudan | 111 |
| the Hybrid Court of South Sudan | 123 |
| Conclusion: stable peace remains a difficult goal to achieve | 128 |
| Acknowledgement | 133 |
| Bibliography | 135 |

Introduction

South Sudan, officially known as the Republic of South Sudan, is a landlocked state in east-central Africa, part of the United Nations East Africa subregion. Its current capital is Juba, which is also its largest city. South Sudan is bordered by Ethiopia to the east, Kenya to the southeast, Uganda to the south, the Democratic Republic of Congo to the southwest, the Central African Republic to the west and the Republic of Sudan to the north.

Unlike Sudan, most of the state's territory is covered by tropical forests, swamps and grasslands. This makes the development of infrastructure extremely hard and complex. In South Sudan there are many populations, and many more languages are spoken than in Sudan. The Dinka population, estimated at around one million, is the largest sub-Saharan tribe in South Sudan. The others major populations are the Shilluk, Nuer, Acholi and Lotuhu live in the region. More than 60 indigenous languages are spoken in South Sudan.

As can be seen from the World Bank graph (Figure 1), South Sudan's GDP per capita has always fluctuated between 1.8 and 1.1 billion US Dollars and at the time of the last survey (2015) reached the lowest point in its history (1.119), according to The Observatory of Economic Complexity (OEC), the South Sudanese economy is considered the poorest in the world. Lacking in healthcare infrastructure, the region also has the highest rate of maternal mortality and female illiteracy. The market is based on the export of timber to foreign countries, the exploitation of mineral resources such as oil, iron, copper, chromium, zinc, tungsten, mica, silver and gold, the production of hydroelectric power and agriculture, mainly subsistence farming and livestock breeding. OEC data show that the most exported product is crude oil 1.7 billion dollars, more than 90% of total GDP, and the largest importer of South Sudanese oil is China (88%), this data is very important, and its consequences will be analysed in detail.¹

¹ The Observatory of Economic Complexity (OEC) is an online data visualization and distribution platform focused on the geography and dynamics of economic activities. The OEC integrates and distributes data from a variety of sources to empower analysts in the private sector, public sector, and academia. available at: <https://oec.world/en/profile/country/ssd>

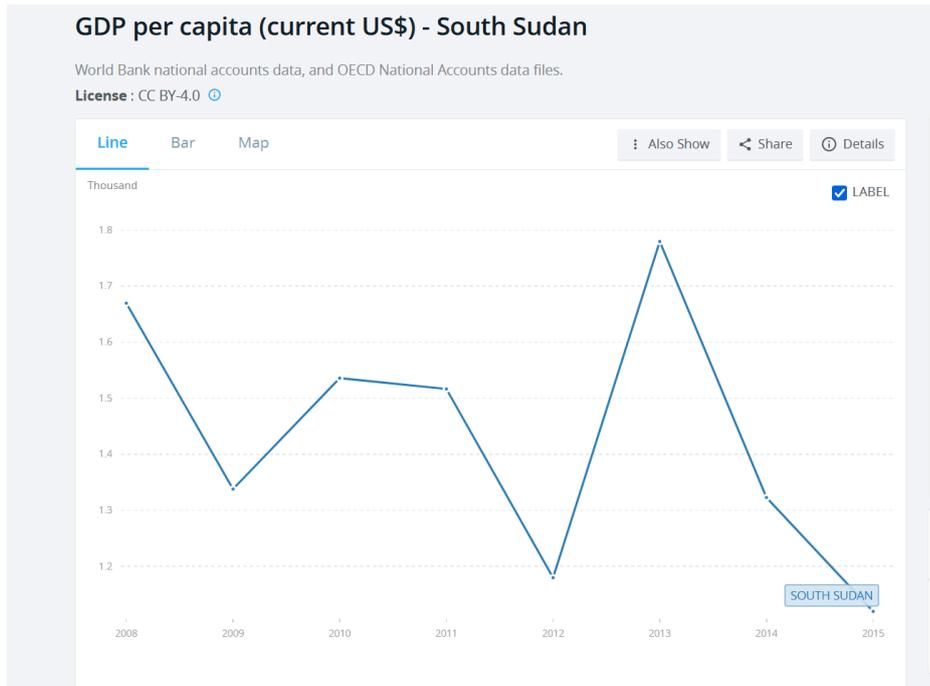


Figure 1²

On 14 July 2011, South Sudan became the 193rd country to join the United Nations, the last country in chronological order to have obtained formal independence recognised by the International Community. To understand the deep economic and social crisis afflicting South Sudan, it is necessary to investigate the historical causes that led to these civil conflicts. Independence was achieved after a very long period of civil war between the Muslim-majority north and the non-Muslim south. The civil wars between North and South Sudan were caused by the profound cultural and social differences that differentiate the South from the North. As it will show, the northern Muslim peoples since the end of the 19th century, when the two peoples came into close contact, have imposed the Muslim religion and tradition on the southern peoples.

After the independence of the united Sudan Civil war broke out soon, the first civil war was from 1956 to 1972, hostilities resumed in 1983 and lasted until the signing of the Comprehensive Peace Agreement (CPA) in 2005. Civil war broke out in

² World Bank national accounts data, and OECD National Accounts data files, “GDP per capita (current US\$) - South Sudan”, available at: <https://data.worldbank.org/indicator>

South Sudan in 2013 and despite two peace agreements (2015 and 2018) the aftermath of the civil war is still visible today, in 2021.

As can be easily observed, civil conflicts have always been present in the territories of South Sudan, making it the poorest state in the world and causing huge emigration of people fleeing war zones. Moreover, civil war has been going on throughout history from decolonisation to the present day, and the different international alignments have had a profound effect on the conflicts. From the division of the world into two blocs, *Western* and *Soviet*, to the war on Islamic terrorism, conflicts have also spanned the major global economic crises, from the crude oil crisis in the 1970s to the post-2008 global economic crisis.

The literature on the conflicts in Sudan and South Sudan is very deep, Western historians have often focused on the root causes of civil conflicts, while human rights observers have focused on the serious violations of fundamental rights that occurred during the conflicts. Other international relations scholars have highlighted the positive and negative role of regional organisations that mediated the conflict. While many scholars, especially from African universities, focused on what was the best strategy to promote lasting peace in South Sudan and what should be the role of the international community in the responsibility to protect (R2P).

A less in-depth topic is certainly related to the influence of the international community on the events related to the civil wars in Sudan and then South Sudan. What interests moved the superpowers and regional international organisations during the second half of the 20th century and into the new millennium? Why did the superpowers recognise the right to self-determination of the South Sudanese people after the fall of the *Berlin Wall*? What role did crude oil extraction play in the permanent military intervention in South Sudan by the United Nations?

The aim of this thesis is to analyse the Sudanese and South Sudanese civil wars to understand the role of the international community in one of the most conflict-ridden areas of the entire African continent. The analysis will only be conducted using primary and secondary sources without field observation by the author as it is made difficult by the continuing conflict and impossible by the global health restrictions caused by the SarsCov2 pandemic.

To understand the causes of the civil wars that broke out after Sudan's independence, it is necessary to start from when the two very different populations first came into contact. This did not happen in a stable manner until the 19th century, since the people of northern Sudan were historically linked to the Muslim world, especially with neighbouring Egypt, while the people of present-day South Sudan were divided into tribes and had no constant interaction with the people of the north.

The first chapter will analyse the history of Sudan from the colonial period to independence, the focus will be on the character of domination that the Sudanese imposed on the people of the south and then on the will of the British Empire to build a *South Sudanese identity* different from the Muslim one. The second part of the first chapter will analyse the first Sudanese civil conflict and the (absent) role of the international community. It will be possible to observe that the non-governmental organisations, especially Christian ones, played a major role at that time resolving the conflict through covert mediation with the conflicting parties.

The second chapter will analyse the role of the superpowers during the second Sudanese civil conflict that broke out in 1983. The role of the Intergovernmental Authority on Development (IGAD), a regional political and commercial organisation uniting the states of the Horn of Africa, will be analysed. It will show how the interests of Sudan's neighbouring states increased the duration and brutality of the conflict. Thanks to the declassified sources of the CIA and the British government it will be possible to observe how the stable diplomatic relations built between the two super powers and Khartoum crumbled during the twenty years 1983-2003, with the end of the *Communist threat* in Africa and the attack on the World Trade Center in 1993 the United States declared Sudan a sponsor state of terrorism and began to push indirectly for an end to the civil conflict with the aim of weakening Sudan through the division of the South.

The third chapter will analyse the interim period established by the 2005 CPA and the civil war that broke out in South Sudan, the focus will be on the role of IGAD during the interim period and in the subsequent peace process that unfortunately in 2021 is struggling to be stable. The role of the AU will also be addressed, made

difficult by the interests of the IGAD *holder* of the task of mediating between the conflicting parties during the civil conflict in South Sudan. In addition, attention will be focused on the role of the UN Missions in the process of *state building*, linked to the UN, the role of a new international actor will be analysed: The People's Republic of China. China has been one of the main contributors to the United Nations missions in Sudan and South Sudan, as shown by the data reported above on crude oil exports, and China's role in the UN missions raises suspicions.

The fourth chapter will concern the terrible humanitarian conditions caused by the civil conflicts in South Sudan, through the reports of the African Commission on Human and Peoples' Rights of the African Union and the reports of the United Nations Human Rights Council. The last, but not least topic addressed concerns the future of Hybrid Court of South Sudan (HCoSS) established by the 2015 peace agreement, but it was ratified by the South Sudanese government only in January 2021.

The type of sources that will be use in the thesis is widely varied. Treaties, resolutions and communications of the international organisations involved in mediation between the conflicting parties will be reported. Thanks to sources declassified by the CIA and 10 Downing Street, it will be possible to discover the relations between the two superpowers and Sudan in the second half of the twentieth century. An essential element for the description of the events was the role of historians. Thanks to academic publications and newspaper articles, it will also be possible to report the voices of those who took part in the conflicts and the peace process. The statements made in an interview by Jaafar Muhammad an-Nimeiry, the Sudanese president who signed the end of the first civil conflict, will be showed. Furthermore, fundamental to understanding the peace process of the second Sudanese civil war will be the contribution of Sudanese People Liberation Army (SPLA) Lieutenant General Malual Ayom Dor in his PhD thesis at King's College London entitled "*Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*". Moreover, the contribution of many authors from universities all over the world has been fundamental in understanding the role of the different international actors that influenced the troubled history of South Sudan.

1. The birth of Sudan and the first civil war

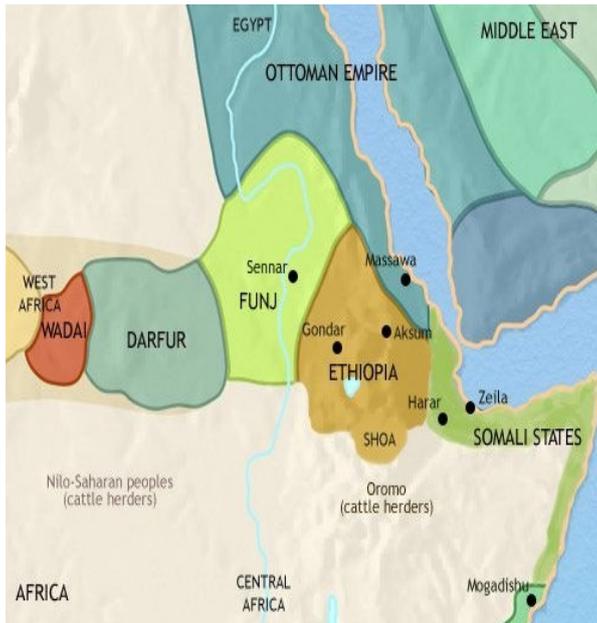


Figure 2³

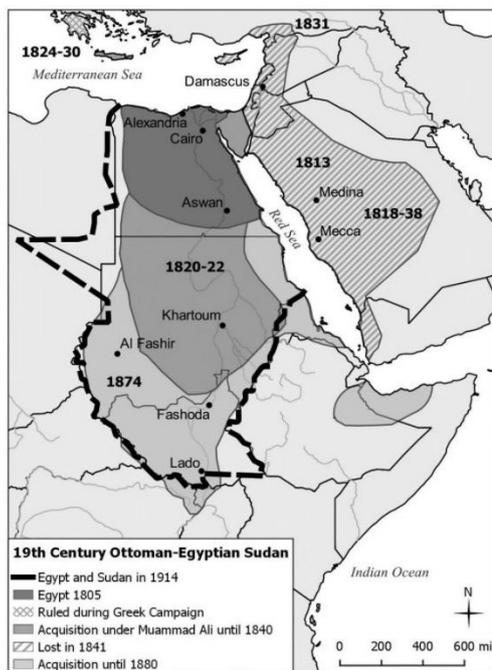


Figure 3⁴

³ Northeast Africa 1871 CE, available at <https://www.timemaps.com/history/nubia-1871ad/>

⁴ In Alden Young, *Transforming Sudan: Decolonization, Economic Development, and State Formation* (Cambridge University Press, 2017), 29. available at: <https://www.geographyofsources.com/borders.html>

The first chapter aims to investigate the root causes of the continuing crisis in Sudan and South Sudan. This requires a study of the differences between the populations living in the wide area of northern and southern Sudan.

Historically, there are deep differences between the northern Sudanese, predominantly of Arab culture, and the South Sudanese characterized by Central African tradition. Until the second half of the 19th century, the South Sudanese territories was not considered a *state* (Figure 1). In the territories of present-day South Sudan, different ethnic groups lived in those territories, toward the view of western observer, the common ground were the non-Arab culture and mixed Christianity and animist cults. During the 17th and 18th centuries, Arab Sudanese and Egyptian populations went to of Southern Sudanese territories only to force the population to become slaves and to be sold in slave markets. Only with the creation of the Anglo-Egyptian co-dominium did the two *worlds* come into forced contact, as we shall see in detail, the British establishing the South Sudan province, their objective was growing the different populations of the north and south, increasing the south Sudanese identity to "weaken" the Egyptian influence on the condominium.

The chapter will be divided into two macro sections, the first section will show the historical evolution of Sudan from the 19th century to its independence in 1956. The aim will be to describe the root causes of the ethnic and social conflicts that have crossed Sudan and South Sudan from independence to the present day. The second part will analyse the first Sudanese civil war until the outbreak of the second Sudanese civil war in 1983. Using declassified CIA and British government sources and statements from the USSR, the role played by the superpowers USA, UK, USSR during the first conflict will be described. Furthermore, the analysis on impact of international community will focus on the key role played by non-governmental humanitarian organisations to support civil population and to mediate between the part in conflict.

From Napoleonic wars to British colonization (1805-1889)

Norther Sudanese people and Egyptians and have a thousand-year relationship, the course of the Nile River allowed an agile communication between the two peoples it was based on economic exchanges. During the long period of the Ottoman Empire, they were considered a single "province", and this fostered a deep cultural bond. In contrast, the peoples who inhabited present-day South Sudan did not have the same cultural bond and were never part of the Ottoman Empire (Figure 2), as we shall see in this chapter the relationship between North Sudan and South Sudan was one of domination of one culture over another, Norther Sudanese never intended to start a process of cultural hybridisation. Through the creation of the Anglo-Egyptian condominium, the British Empire formally recognised the north-south division for the first time by establishing separate administrations for each region.

South Sudan is different from North Sudan in nearly every aspect: ethnicity, culture, history, religion and geography. The people of North Sudan are Muslims and of Arab descent while the South Sudanese are Africans who practice their own African beliefs mixed with Christianity. The diverse population speaks 400 different languages. According to professor S. L. Laki⁵ " *This ethnic, religious, and racial mixture has been the root cause of the identity crises in Sudan. Before the advent of the Anglo-Egyptian colonial era in 1898, the Arabs and Africans lived apart with nothing in common. The Turco-Egyptian administration (Turkiyya), from 1820-1881, and the Mahdi administration (Mahdiyya), from 1881-1898, never attained any measure of control over South Sudan. South Sudan remained a heater of war between the intruders and the indigenous populations. The legacy of the notorious slave trade poisoned the relationship between the people of South Sudan and North Sudan to an extent that the relationship between the Arabs and Africans had been characterized by hatred and violence.* "⁶

Between 1798–1801 in the North-west Africa there was a strong political instability due to the French campaign in Egypt and Syria. The Napoleon Bonaparte's campaign in the Ottoman territories of Egypt and Syria was proclaimed to defend

⁵ Central State University, former Associate Professor, Dept. of Water Resources Management.

⁶ Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies*, New Series, 3, no. 2 (1996). Page 8

French trade interests. Despite early victories and an initially successful expedition into Syria, Napoleon and his army were eventually defeated and forced to withdraw, especially after suffering the defeat of the supporting French fleet at the Battle of the Nile. Combined British and Turkish military operations forced the withdrawal of French forces in 1801, introducing a period of chaos in Egypt. In 1805 the Ottomans restored order by appointing Muhammad Ali as Egypt's pasha.

There is little documentation for the history of the southern Sudanese provinces until the introduction of the Turkiyah in the north in the early 1820s and the subsequent extension of slave raiding into the south. Information about their peoples before that time were based largely on oral tales.

Until the XIX century geographic barriers protected the southerners from Islam's advance, enabling them to retain their social and cultural heritage and their political and religious institutions. During the nineteenth century, the slave trade brought southerners into closer contact with Sudanese Arabs and resulted in a deep hatred for the northerners. Slavery had been an institution of Sudanese life throughout history, but southern Sudan, where slavery was particularly common, was originally considered an area beyond Cairo's control.

With the aim of Sudan's access to Middle East slave markets, the slave trade in the south were intensified in the nineteenth century and it continued after the British had suppressed slavery in much of sub-Saharan Africa. Annual raids resulted in the capture of countless thousands of southern Sudanese and the destruction of the region's stability and economy. The horrors associated with the slave trade generated European interest in Sudan.

In 1854 Cairo ended state participation in the slave trade, and in 1860, in response to European pressure, Egypt officially prohibited the slave trade. Furthermore, the Egyptian army failed to enforce the prohibition against the private armies of the slave traders. The introduction of steamboats and firearms enabled slave traders to overwhelm local resistance and prompted the creation of southern "*bush empires*" by Baqqara Arabs. After 1870 Egypt again attempted to suppress the slave trade due to international pressure, to do so the Egyptian government decided to use Sudanese northern and southern soldiers from private armies in its service.

During this period, former slaves, both male and female, freed from the service of their merchant owners or masters continued to live around government centres as *volunteer slaves*, providing food and work for government officials and the army. Slave raiding reached its peak in the South during the early 1870s. Not all Southern peoples were affected, and some benefited from collaboration with the trading companies or the government. However, former South Sudanese slaves in North Sudan were considered inferior; in northern opinion *blacks* and *slaves* were synonymous. Even Southern Sudanese who became Muslims or exercised some power in colonial society were stigmatised by their slave status or slave origins. The incorporation of the entire south as an exploitable hinterland of the state, the intensification of racial stratification and the widespread identification of the people of the south with a low status were thus consequences of the economic and political system of Turkish-Egyptian colonialism.

In 1885, after four years of struggle, Mahdist rebels in northern Sudan overthrew the Ottoman-Egyptian administration and established their own 'Islamic and national' government with its capital in Omdurman. The Mahdiyyah (Mahdist regime) imposed traditional Islamic laws. The new ruler of Sudan also authorised the burning of pedigree lists and books on law and theology because of their association with the old order and because he believed that the former accentuated tribalism at the expense of religious unity. The Mahdist government-maintained sovereignty and control over Sudanese territories until its existence was terminated by Anglo-Egyptian forces in 1898. During those years the area of Northwest Africa was shaken by several wars between the colonial empires which led to a political fragility of the regime that inexorably led to its end.

Berry L. Bennette of the Federal Research Division of the United States Congress in 1992 4th edition of the book-report "*Sudan: A Country Study*" points out that "*The British decision to occupy Sudan resulted in part from international developments that required the country be brought under British supervision. By the early 1890s, British, French, and Belgian claims had converged at the Nile headwaters. Britain feared that the other colonial powers would take advantage of Sudan's instability to acquire territory previously annexed to Egypt. [...] In 1895 the British government authorized Kitchener to launch a Campaign to reconquer*

*Sudan. Britain provided men and materiel while Egypt financed the expedition. [...] Many areas welcomed the downfall of regime."*⁷

The Anglo-Egyptian Condominium

In January 1899, an Anglo-Egyptian agreement restored Egyptian rule in Sudan but as part of a condominium, or joint authority, exercised by UK and Egypt. The agreement designated territory south of the twenty-second parallel as the Anglo-Egyptian Sudan. Although it emphasized Egypt's indebtedness to Britain for its participation in the reconquest, the agreement failed to clarify the juridical relationship between the two condominium powers in Sudan or to provide a legal basis for continued British presence in the south. Article II of the agreement specified that "*the supreme military and civil command in Sudan shall be vested in one officer, termed the Governor-General of Sudan. He shall be appointed by Khedival Decree on the recommendation of Her Britannic Majesty's Government and shall be removed only by Khedival Decree with the consent of Her Britannic Majesty's Government.*"⁸

Initially, nearly all administrative personnel were British army officers attached to the Egyptian army. In 1901, however, civilian administrators started arriving in Sudan from Britain pressures and Sudan Political Service was formed. British will be dedicated to creating modern government in the condominium. Jurists adopted penal codes and codes of criminal procedure look like those in force in British India. The Civil Procedure Code of 1902 continued the Ottoman separation of civil and sharia law, but it also created guidelines for the operation of the sharia courts as an autonomous judicial division under a chief qadi appointed by the governor-general. The religious judges and other officials of the sharia courts were Egyptians.

⁷ Metz, Helen Chapin, and Library of Congress. Federal Research Division. "Sudan: A Country Study". Fourth ed. 1992. Print. Area Handbook Ser. Pages 21-22

⁸ Metz, Helen Chapin, and Library of Congress. Federal Research Division. Sudan: A Country Study. Fourth ed. 1992. Print. Area Handbook Ser. Pages 23-24

In 1922 Britain renounced its protectorate and approved Egypt's declaration of independence. However, the Egyptian constitution of 1923 did not claim Egyptian sovereignty over Sudan. After a series of negotiations between the British government and Egypt, the Sudanese territories remained a colony of the empire. In 1925, the Sudan Defence Force (SDF) was shaped to reply to increase of the Egyptian units. The British sought to modernise Sudan by applying European technology to its underdeveloped economy and replacing its authoritarian institutions with those that adhered to British liberal traditions. However, the remote and underdeveloped provinces of southern Sudan - Equatoria, Bahr al Ghazal, and Upper Nile - received little official attention until the end of World War I, apart from efforts to suppress tribal warfare and the slave trade.

In South Sudan, with the aim of increasing the southern identity the colonial administration discouraged the spread of Islam, the practice of Arab customs and the wearing of Arab clothes. At the same time, the British tried to revitalise African customs and tribal life that the slave trade had disrupted. An *imperial* act in 1930 stated that the blacks of the southern provinces should be considered a distinct people from the Muslims of the north and that the region should be prepared for eventual integration with the British East African colonies.

The religious and legal pattern of Southern Sudan at the end of the Condominium period was roughly as follows: in the rural areas customary law prevailed presumably it was supported by traditional religion, only a few individual Muslims or Christians people were established outside their villages. There were small Christian communities centred around the main mission stations, some in towns and some in rural areas. The main influence of Christianity was not in the number of its converts, but in the subsequent strategic influence that its converts gained through their educational qualifications and their role in administration and politics in the late Condominium and early Independence periods.

Christian missionaries, who ran schools and medical clinics, provided limited social services in Southern Sudan. The first Christian missionaries were the Verona Fathers, a Roman Catholic religious order that had established missions in the south before Mahdiah. Other missionary groups active in the south included

Presbyterians from the United States and the Anglican Church Missionary Society. There was no competition between these missions, largely because they maintained separate areas of influence. The government eventually subsidised the mission schools that educated southerners. Because mission graduates usually managed to gain places in the provincial civil service, many Northerners saw them as tools of British imperialism.

As professor S. L. Laki underlined, *“keeping the two nationalities separate was an honest recognition by the British of the distinct difference in culture, religion, peoples and geography. The 1918 closed districts and passports ordinances sealed off South Sudan from Arab influence until the reversal of the "Southern policy" in 1947. The governor-general, Sir Harold McMichael, was responsible for the institution of the "Southern Policy," meant to keep the Africans separate from the North Sudanese. This policy had been designed to close South Sudan from the external Arab influence with the ostensible intention of preserving indigenous African customs, traditions and beliefs. The policy was a total failure because the Anglo-Egyptian colonial administration also never engaged itself in any form of social, political, or economic development of South.”*⁹

From WWII to Independence

On 10 June 1940, the Kingdom of Italy got involved the War World II alongside Nazi Germany thus the Italian East African Campaign began, one of the Mussolini's objectives being the conquest of Port Sudan. During the summer of 1940, Italian forces invaded Sudan at several points and captured Kassala, outpost close to Eritrean border. However, the SDF prevented a further advance on Port Sudan. In January 1941, the SDF, enlarged to 20,000 troops, recaptured Kassala and participated in the British offensive that routed the Italians in Eritrea and liberated

⁹ Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies*, New Series, 3, no. 2 (1996). Page 8

Ethiopia. Sudanese units contributed also to the British Eighth Army's victory in North Africa.

In 1942, the *General Conference of Graduates*, a quasi-nationalist movement of graduate and well educate Sudanese, presented the British government with a memorandum asking for a promise of self-determination after the war. The governor-general refused to accept the memorandum but agreed to a government-controlled transformation of the indirect government into a modernised system of local government. In the immediate post-war period, the British government made large changes. Following the end of World War II, a conference about the administrative future of Sudan was held in 1946. In that context, the decision was taken to annex the territory of South Sudan to North Sudan without any input from the people of South Sudan.

S. L. Laki pointed out that "*it is ironic when one considers the fact that the North Sudanese, who had resisted Egyptian moves to annex the Sudan with strong backing from the British colonial administration, could have proceeded to exclude South Sudanese representation at this important conference. Moreover, when the Arabs laid a claim on South Sudan, the British colonial administration which had earlier promised to safeguard the interests of the African Sudanese from being encroached upon by North Sudan failed to object to this illegal move.*"¹⁰

In 1947, the Juba conference was held by the civil secretary, Sir James Robertson, to endorse the decision that had already been made to annex South Sudan. The South Sudanese delegates at the conference made two requests: first, they claimed to be able to organise themselves by setting up executive and legislative councils like those that existed in North Sudan. They also demand to exercise their right to self-determination as soon as possible. Both the president and the North Sudanese delegates rejected these demands. The non-inclusive attitude of North Sudanese politicians towards the people of the south did not change during the Anglo-Egyptian occupation. The British policy of two separate administrations and the

¹⁰ Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies*, New Series, 3, no. 2 (1996). Page 9

subsequent separate development process for North and South Sudan did not facilitate the hybridisation process.

The researcher Dr Douglas H Johnson underlined that "*it is not necessarily the case that Northerners and Southerners would have developed a common national understanding had the policy of administrative segregation never been imposed, but the gulf of misunderstanding which separated North, and South was all the greater as a result of that segregation. One effect of the inclusion of Southerners in the Legislative Assembly was that the most senior and experienced southern Sudanese administrators and teachers now entered national politics, and by virtue of their presence in Khartoum were withdrawn from active participation in the development of civil society and self-governing institutions in the South.*"¹¹

In 1952, the Legislative Assembly approved the *Statute of Self-Government* that it set out the process by which Sudan would elect its first autonomous legislature and the conditions that would have to be met for self-determination. The statute was originally an agreement between the pro-independence parties and the southern and provincial members of the Assembly. In its final form, the statute represented a compromise between all major political groups within Sudan, as mediated by the British members of the Government of Sudan. The abolition of the Egyptian monarchy by the *Free Officers' coup* in July 1952 was followed by Egypt's renunciation of any claim to sovereignty over Sudan.

After the July 1952 revolution in Egypt, there were a series of negotiations between the British, Sudanese and Egyptians. The meetings were mainly about deciding what should be the Sudan's relationship with Egypt, rather than decisions to ensure inclusion of South Sudanese in the state's decision-making process. The British were grateful to manipulated both Khartoum and Cairo. According to the professor

¹¹ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Pages 25-26

Matthew LeRiche ¹² “*the net result was a process unambiguously in preparation for independence, but distinctly lacking in Southern Sudanese representation.*”¹³

Southern hostility to the Arab majority in the north emerged violently in August 1955, when southern army units mutinied to fought against their transfer to garrisons under northern officers. Rebel troops killed several hundred Northerners, including government officials, army officers and merchants. The SFD quickly suppressed the revolt and eventually executed seventy Southerners for sedition. Some of the mutineers fled to remote areas and began to organise resistance to the Arab-dominated government of Sudan.

In the run-up to the elections, the northern parties persuaded the southern parties to accept the independence that the assembly was voting on, in return for the promise from northern politicians that a federal system would be considered once independence was achieved. These promises were never kept. Although the southern parties won a significant number of seats in the 1953 elections, the southern bloc quickly collapsed due to competition and division between the various representatives.

When Sudan formally gained independence on 1 January 1956, the demands brought by the southern parties did not materialise. The new state had a unitary form and an overtly Arab and Islamic identity. This caused a new sense of bitterness in the southern populations about the sincerity of the northern policy. This dissatisfaction was compounded by the existence of deep divisions between North and South in terms of economic and social development.

According to researcher J. H. Douglas “*The final paradox of Sudanese independence was that it was thrust upon the Sudan by a colonial power eager to extricate itself from its residual responsibilities. It was not achieved by a national consensus expressed through constitutional means. A precedent was set that has*

¹² Dr. Matthew LeRiche is the Director of the Global Leadership Center and the War and Peace Studies Program. He is also the Assistant Professor of Global Studies. He earned his Ph.D. and Master of Research Department of War Studies at King’s College London, and his B.A. in Political Science and Law & Society at the Memorial University of Newfoundland.

¹³ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 12

haunted Sudanese politics ever since: the precedent of taking the popular will for granted, and therefore circumventing agreed legal procedures in all major constitutional issues."¹⁴

Even in this new context of marginalisation before and after independence, South Sudanese political forces were still not unanimously in agreement about the South's demand for independence. A substantial section continued to call for a form of federalism with religious and cultural protections for the South. The Reverend Saturnino Lohure, a prominent Southern politician, highlighted this interest to parliament in 1958: '*The South has no intention of separating from the North, for had that been the case nothing on earth would have prevented the demand for separation*'.¹⁵

The first post-independence Constituent Assembly was dissolved in 1958 because of tough discussions about a unitary or federal form of state. The Sudanese gained independence with a temporary constitution drafted by a British academic constitutional expert. The temporary constitution was the way to avoid the most divisive issues of whether Sudan should be a federal or unitary state, and whether it should have a secular or Islamic constitution. Most of the early southern politicians favoured federalism as a way of protecting the southern provinces from being completely subordinated to a central government dominated by the north. The argument most Northerners offered against federalism was that it was the first step towards secession. The political and legislative inexperience of the southern leaders did not allow them to translate the slogan of federalism into a concrete proposal.

The first Sudanese civil war (1956-1973)

In this second part of the chapter will be analysed the first Sudanese civil war and the role of the superpowers in the conflict, the historical evolution will be exposed

¹⁴ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 29

¹⁵ In LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 14

through historical sources and the declassified sources of the CIA and Downing Street. The US was particularly interested in the Sudanese due to the *auto-mandate* role of Washington's government in the global fight against communism. Moreover, in this historical period the opposition between US and USSR reached one of its highest peaks and as will be shown in this section the consequences were also seen during the first Sudanese civil war. From the point of view of international actors, during the first civil war the international organizations were not able to mediate toward the peaceful resolution of the conflict, the only international actors were the NGOs especially the African Christian churches played a key role both in assisting the war-torn civilian populations and in conducting secret dialogues to achieve peace.

The first Sudanese (1956-1973) civil war has deep roots in Sudan as a geographical space and political entity. Indeed, it is not surprising that the first conflicts between rebel groups began even before Sudan was recognised by the international community as a nation-state. The project of *Islamisation* of the whole of Sudan had disastrous consequences for the people of South Sudan who had to suffer the imposition of a totally foreign culture, religion and legal system.

In January 1956, Sudan formally gained independence from the British empire, the work of the constituent assembly stalled early on due to the unwillingness of northern politicians to accept the demands made by southern Sudanese politicians of federal system and secularism as a legal system.

On 17 November 1958, the day the parliament was to meet for the first time, a military coup took place. The retired army general Khalil planned the pre-emptive coup in conjunction with leading Umma members and the army's two senior generals, Ibrahim Abbud and Ahmad Abd al Wahab, who became leaders of the military regime. Abbud immediately pledged to resolve all disputes with Egypt, including the long-standing problem of the status of the Nile River. The coup removed political decision making from the control of the civilian politicians. Abbud created the Supreme Council of the Armed Forces to rule Sudan.

Despite the Abbud regime's early successes, opposition elements remained powerful. In 1959 dissident military officers made three attempts to displace the

Abbud government and to establish a *popular government*. Discontent among the military and some political forces continued to obstruct the government's work. In particular, the Sudanese Communist Party (SCP) supported the coup attempts and gained a reputation as an effective anti-government organisation. Moreover, the Abbud regime lacked dynamism and the ability to stabilise the country. The regime's failures were failure to place suitable civilian advisors in positions of authority, failure to launch a credible economic and social development programme and failure to gain the support of the army. All these factors created an atmosphere that encouraged political turmoil. Abbud's southern policy proved to be his undoing. The government suppressed expressions of religious and cultural differences and supported attempts to *Arabize* society.

On 1958 Ali Abdel Rahman, Sudanese Minister of Interior, stated that " *The Sudan is an integral part of the Arab world and as such must accept the leadership of the two Islamic religious leaders of the Sudan; anybody dissenting from this view must quit the country.*"¹⁶ Immediately the new-born armed group *Anya-Nya* (AA)¹⁷ replied "*It is better to die than to be a slave of the greedy Arabs, What we fight for!*"¹⁸ On February 1964, to prevent external interferences Abbud ordered the mass expulsion of foreign missionaries from the south. He then closed parliament to cut off outlets for southern complaints. Southern leaders had renewed in 1963 the armed struggle against the Sudanese government that had continued sporadically since 1955. The rebellion was spearheaded from 1963 by guerrilla forces known as the *Anya-Nya*.

Abbud did not have effective economic policies for Sudan, the country's economy was severely affected by fluctuations in the international price of cotton, which was the main export at that time. The economic instability increased the general discontent throughout the country. In the Equatoria province, where the leadership of the AA movement was based, conflicts increased creating a serious humanitarian crisis. The early conflicts between AA and the Sudanese government provoked the

¹⁶ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 24

¹⁷ the name of *Anya-Nya* armed group came from a poisonous concoction

¹⁸ *Idem*.

first South Sudanese refugee crisis. Uganda absorbed most of the southern Sudanese refugees without any intervention by the international community.

Recognising the government inability to calm down the growing southern discontent, the Abbud regime asked the civil sector to submit proposals for a solution to the *southern problem*. However, criticism of government policy quickly moved beyond the southern due to the unemployment conditions and the lack of education. The government's attempts to silence these protests had the opposite effect. The demonstrations started mainly from the University of Khartoum, when the military decided to attack the students, the situation degenerated and there was a reaction not only from the teachers but also from Khartoum's civil servants and unionised workers. The general strike spread throughout the country and was followed by the so-called *October Revolution of 1964*. The leaders of the strike identified themselves as the National Professional Front. Together with some former politicians, they formed the left-wing United National Front (UNF), which made contact with dissident army officers. After several days of unrest that resulted in many deaths, Abbud dissolved the government and the Supreme Council of the Armed Forces. UNF leaders and army commanders planning the transition from military to civilian rule chose a senior non-political official, Sirr al Khatim al Khalifa, as prime minister to lead a transitional government. The new civilian regime, operating under the 1956 Transitional Constitution, sought to end political factionalism by establishing a coalition government. Although the new government allowed all parties only five of the fifteen seats in Khatim's cabinet went to party politicians different from UNF. The prime minister gave two seats to non-party southerners and the remaining eight to members of the Professional National Front, included several communists. Eventually, two political parties emerged to represent the south. The Sudan African National Union (SANU), founded in 1963 and led by William Deng and Satùurino Lahure, a Roman Catholic priest, operated among refugee groups and guerrilla forces.

In the mid-1960s, at the height of the Cold War, the sudden change of leadership at the top of the Sudanese government led to an interest in the Sudanese question by the two superpowers USSR and US. Thanks to recently discretised CIA documents, it is possible to observe how the Washington's government was concerned about

the ever-increasing ethnic division during Abbud's government. The ethnic divisions between North and South Sudan worried the US because it feared the spread of communist and left-wing ideas, especially among students.

On October 26th, 1964, CIA stated that *“the regime is also under pressure to moderate its campaign against rebels in the predominately Negro southern Sudan, who are fighting efforts to “arabicize” the south.”*¹⁹ On November 9th, 1964, CIA underlined that *“the new Sudanese revolution may be moving father toward the left. [...] we think the Communists are behind a new flock of rumours concerning another coup. Their hand is also discernible in the student demonstrations last evening, which had pronounced anti-American cast. One speaker styled last month’s overthrow of the Abboud government as a “people’s revolution.”* ”²⁰

Thanks to the resumption of civilian rule came the legalisation of political parties. The Southern Front party was formed in Khartoum. The first secretary was Clement Mboro, a veteran of the 1947 Juba conference, and the party consisted mainly of a new generation of educated South Sudanese officials. Mboro was appointed Minister of the Interior in the interim government, and South Sudanese exiles were invited to return to Sudan to participate in a round table discussion on the resolution of the southern problem.

As the rebellion exerted increasing pressure on the government, southern politicians demonstrated a continued propensity for fratricidal division and were unable to agree on objectives and leadership. In March 1965, a peace conference known as the Round Table Conference was convened in Khartoum in which took part the Southern Front, the Sudanese African National Union (SANU), as well as Northern parties the Umma Party, the National Unionist Party, the Sudanese Communist Party and Hassan al-Turabi's Islamic Charter Front. The two southern groups demanded self-determination, or at least a federal constitution; the Northerners only granted a nebulous *'regional government'*.

¹⁹ United States Central, I. A. (1964). *The president's intelligence checklist [communist China-north Vietnam; Bolivia; Sudan; Congo; includes notes]*; page 5

²⁰ United States Central, I. A. (1964). *The president's intelligence checklist [Bolivia; soviet anniversary; Sino-soviet relations; Sudan; Japan; Congo; includes photographs and notes]* page 6.

The 1965 elections for the national parliament did not take place in South Sudan due to the escalation of the civil conflict in the South. Southern Sudanese therefore had no representatives in the national assembly. The elected coalition government continued to pursue the policy of *Islamisation* and *Arabisation* without ending the brutalities against the people of South Sudan, it was witnessed by the Juba and Wau massacres in 1965. In 1966 Sadig El Mahdi²¹, during a speech to the constitutional assembly, declared that "*The dominant feature of our nation is an Islamic one and the overpowering expression is Arab, and this nation will not have its entity identified and its prestige and pride preserved except under an Islamic revival.*"²²

The Islamic parties had a very racist view of their *cousins* in the south, considering them to be inferior beings without culture. According to researcher S. L. Laki "*Dr. Hassan el Turabi, the leader of the Muslim fundamentalists, argued that the South Sudanese had no culture, and that the vacuum must be filled by an Arabic, Islamic culture. Thus, Arabic was introduced as an educational language, Friday replaced Sunday as the day of rest, and conversion to Islam was pursued vigorously*"²³

As has been shown above, the change at the top of the Sudanese government increased community interest in the Sudanese civil war. Support for the two sides in the conflict also mirrored the division of the two Cold War blocs. Since 1969 Israel started to train Anya-Nya rebels and it shipped weapons to the rebels via Ethiopia and Uganda. Anya-Nya also purchased weapons from Congolese rebels and international arms dealers with money collected in the south and from Sudanese exile communities in the Middle East, Western Europe, and North America. The rebels also captured arms, equipment and supplies from government troops.

By contrast, in August 1968, the Soviet Union had concluded a \$100/150 million deal with Sudan, the deal included tanks, armoured personnel carriers and aircraft. During this period, Sudan obtained some Soviet-made weapons from Egypt, most of which went to the Sudanese air force. Over the next two years, the Soviet Union

²¹ Sudan's Umma Party leader.

²² Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies*, New Series, 3, no. 2 (1996). Page 13

²³ Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies*, New Series, 3, no. 2 (1996). Page 13

delivered an impressive array of equipment to Sudan, including tanks and light armoured vehicles.

Consequently, faced with a massive USSR investment in support of the Sudanese government, the US reaction was immediate. According to unclassified CIA sources, the government in Khartoum suspected that some powers, including the US and Israel, were helping the South Sudanese rebels as early as 1965. " *Prime Minister Mahjoub has refused to show Ambassador Rounteree documents which, he says, "prove" that US has been helping the southern Sudanese rebels via Congo. The use of forged material and Mahjoub's attitude recall the similar affair between US and Tanzania last year. Mahjoub returned last week from a visit to Tanzania. A virulent Khartoum press campaign is in progress, linking the US with Congolese and Israeli machinations and calling on the government to turn to Sudan's "real friends." I. e. Egypt and USSR ...* "²⁴ the end of CIA's communication is still secret.

The 1969 year was the turning point for the end of hostilities in the first Sudanese civil war because Lieutenant General Gaafer Al-Nimeyri took power thanks to a military coup on 25 May 1969. In his statement of 9 June 1969, Nimeyri immediately acknowledged the social, cultural, and economic differences between North and South Sudan. In his first period of government, Al-Nimeyri officially decided to ally Sudan with the USSR. On 30 June 1969, he was interviewed by Yevgeny Maksimovich Primakov, one of the most important Soviet politicians. During the interview, Al-Nimeyri touched on several key issues concerning the international relations of Sudan but also on how the president wanted to end the Sudanese civil war by granting the people the freedoms that had always been denied until then.

"The regime we ousted was rotten to its core. We have the support of the overwhelming majority of the people. [...] We must not allow the south of Sudan to be turned into a base for counter-revolution. [...] We will grant national rights within the framework of a united Sudanese state to the tribes of the south, who are

²⁴ United States Central, I. A. (1965). *The president's daily brief [south Vietnam; Vietnam; Singapore; Indonesia; Dominican Republic; Greece; India Pakistan; Colombia; Peru; Sudan; berlin; includes maps]*

*all ethnically, religiously, and linguistically different. They will be offered a form of autonomy. We can draw on the example of many countries and how they have settled their nationalities question, including the Soviet Union. [...] We will stand side-by-side with all forces that are fighting colonialism. [...] The Sudanese people feel very grateful to the Soviet Union for its enormous support in the pro-independence struggle, in the Arabs' battle for their rights against the forces of imperialism. We see our future as one of multilateral partnership with all friendly countries, including the Soviet Union.”*²⁵

Although Nimeri was quick to acknowledge the cultural differences of the South Sudanese people, he waited three years to sign the peace treaties that ended Sudan's first civil war. Peace operations were accelerated after a 1971 coup attempt by the Communist Party, the insurgency having gained considerable military support in the early 1970s, suggesting Khartoum to accelerate peace negotiations. For both sides, the military stalemate was obvious; clearly only a negotiated settlement would break the impasse. Through the mediation of the Ethiopian monarch, Emperor Haile Selassie, negotiations to end the war began in Addis Ababa in February 1972. According to researcher J. H Douglas “*The Addis Ababa Agreement, negotiated in February 1972 between the government and the Southern Sudan Liberation Movement (SSLM), not only brought peace to the Sudan, but, as a unique resolution to civil war never before achieved in post-colonial Africa, brought great international acclaim to the nation and its leaders.*”²⁶

The Southern Sudan Liberation Movement (SSLM) was a fledgling movement that included AA rebels and all South Sudanese political forces to achieve the end to hostilities. It was formed primarily to unite the different South Sudanese souls under one umbrella during negotiations. According to Professor Matthew LeRiche “*it was clear that Southern separation was not an option; instead, a form of regional autonomy was.*”²⁷ Lagu decided to focus on the ‘powers’ the South would have in a

²⁵ Evgenij Maksimovič Primakov, *Russia and the Arabs: Behind the Scenes in the Middle East from the Cold War to the Present*, Hachette UK, 2009. Pages 77-78

²⁶ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 39

²⁷ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 27

'one Sudan context'. Despite strong feelings within the SSLM in favour of secession, the pragmatic Lagu understood that regional autonomy for the South was preferable to secession if peace was to be achieved. When asked after the Addis Ababa agreement to explain his apparent change of position regarding secession, Lagu said: *"I never was a secessionist. Never did I believe in the secession of the South from the North. I still hold that belief."*²⁸

After only 12 days of negotiations the Addis Ababa Agreement was signed on 27 February 1972. The key clauses of the were that South Sudan would be represented as a single distinct entity through an autonomous Southern Regional Government (SRG); 'southern' areas outside the formally defined South (notably Abyei) would have referenda on inclusion in the South; Anya-Nya insurgents would be integrated into the national army and make up half of a 'Southern Command' that would be subordinate to the command in Khartoum. An elected Regional Assembly based in Juba was planned, with a High Executive Council (HEC) composed of ministers and headed by a regional president, both appointed by the national president and elected by the Regional Assembly.

The SRG could raise local taxes but could not engage in economic planning; the president of the republic retained final authority over it. In May 1973, the arrangement was incorporated into a new national constitution, the Southern Sudan Self-Government Act, which stipulated that it could only be changed by a three-quarters vote of the national assembly and the approval of a Southern referendum. Of key importance to many southerners was that the new constitution also included provisions to guarantee freedom of religion. The Addis Ababa Agreement satisfied some basic Southern interests, but not others. SSLM negotiators granted full independence as a precondition for negotiations but achieved recognition of South Sudan as a separate and autonomous entity within Sudan. For the first time, their regional government now directly represented the South Sudanese.

In addition, the agreement resulted in a new constitution that recognised the *African* identity inherent in Sudan's national character and included provisions guaranteeing a secular state. However, the SSLM had limited and ambiguous powers, and its

²⁸ *Idem.*

autonomy was in the context of a Sudanese state that had an exceptionally strong presidency and no southern representation. Despite the SSLM's demands, the agreement did not provide for a separate security force for the South to ensure its implementation. However, it stipulated that some police and security units were to be recruited locally.

According to Professor Matthew LeRiche “*Lagu’s assured appointment as head of the military in the South inclined him towards a quick acceptance of an agreement rife with ambiguities and lacking comprehensive resolutions to some lingering issues. He was confident that as the Division One Commanding Officer he would be able to resolve any issues that arose, and that securing the deal in short order was essential.*”²⁹

During the first Sudanese civil war, the role of international organisations and major powers was marginal because of the Cold War. Although on a smaller scale than other conflicts in the 1960s and early 1970s, Sudan was a battleground for disputes and mutual accusations between the US and the USSR, the two superpowers facing each other with no intention of cooperating to achieve peace. The first Sudanese civil war lasted about 17 years, with civilians paying the highest price in terms of human lives; it is estimated that about 80% of the victims were not armed combatants. As seen above, President Nimeyri played a key role in recognising the demands of the South Sudanese rebels, and succeeded in not dividing Sudan by guaranteeing, at least by agreement, a federal system that would guarantee civil and legal liberties, religious freedom, and partial political power in South Sudan. From the point of view of international actors promoting a peace process, NGOs and the different branches of the Christian churches played an important role.

In the 1960s, the World Council of Churches (WCC) and the All-African Conference of Churches (AACC) worked diligently to build trust with the two parties. The "Religion and Conflict Case Study Series; Sudan: Race and Religion in Civil War", a case study by the Berkley Centre for Religion, Peace, and World Affairs at Georgetown University, shows that the WCC and the AACC played a critical role in the peace process. According to Georgetown University researcher

²⁹ *Ibidem*, pages 27-28

the initially involved in refugee relief, the AACC sent a humanitarian mission to Sudan the “*international Christian ecumenical movements played a major role in ending the civil wars in Sudan. With respect to the end of the First Sudanese Civil War, the WCC and the AACC played a critical part in the peace process. Initially engaged in refugee relief, the AACC sent a goodwill mission to Sudan in 1966 to assess the situation and offer its services to facilitate a peace process. By 1970, the WCC began to advocate strongly that church leaders in Africa try to contribute to a political solution in Sudan. Finally, both organizations helped to moderate the secret peace talks that led to the Addis Ababa Agreement of March 1972.*”³⁰

Chapter conclusion: the non-war period (1972-1983)

This final section will present the development of Sudan and the critical issues of peace treaty compliance during the eleven years without civil war. The historical development but also the relations of the government of Sudan with the two western superpowers USA and UK will be shown. Reports will focus on Soviet and Cuban interference in the Horn of Africa and economic policies in response to the global oil crisis that hit the world hard during the 1970s. In addition to the CIA's discretised sources, to describe Sudan's international relations it will be possible to draw on the UK's discretised sources during Margaret Thatcher's rule, made public by the Margaret Thatcher Foundation.

During the eleven years of the Southern regional government, Nimeyri intervened in every election of the High Executive Council chairman. Thus, the interference did not alter the perception of many Southerners that the constitutional guarantees for Southern autonomy were too weak. The Southern Region exercised no autonomy in economic planning or education, highly sensitive issues; regional ministries were regarded in Khartoum simply as departments of central government ministries. There was considerable dissatisfaction with the failure of the central government to meet its financial obligations to the Southern Region. In addition,

³⁰ Eric Patterson (editorial direction), *Religion and Conflict Case Study Series; Sudan: Race and Religion in Civil War*, Berkley Center for Religion, Peace, and World Affairs, 2013, page 9

many southerners felt that veterans of the Anya-Nya movement and other exiles were not receiving their fair share of government appointments. This dissatisfaction led to the election of retired Lieutenant General Lagu, the former guerrilla leader, as President of the Southern Region in 1978.

According to researcher J. H. Douglas “*The most important issues confronting the regional government, which would eventually lead to its demise, were: 1) conflict with the central government over the Southern Region’s borders (as raised in the Addis Ababa Agreement), 2) the role of the Southern Regional Government in developing the region’s resources, and more particularly the benefits that were to accrue to it through the exploitation of its oil fields, 3) the growing confrontation in regional politics between the ‘Equatorians’ and the ‘Nilotics’ (particularly the Dinka), 4) dissatisfaction within the region over the fate of the Anya-Nya guerrillas absorbed into the national army.*”³¹

By analysing the great powers during the peace period, it should be noted that the United States had a twofold objective, the first being to reduce ‘communist’ influence in the Horn of Africa. The second objective was to encourage economic changes towards greater privatisation of the state. From the political point of view, on June 1st, 1978, Zbigniew Brzezinski³² sent US President J. Carter a memorandum “*Soviet and Cuban roles in Africa*”. about the Horn of Africa, he stated that “*The Horn: In the short term, Ethiopia appears prepared to support those declared Soviet and Cuban objectives which do not adversely affect Ethiopian national interests. [...] The Somalis believe the Soviets intend to dominate Africa and the Middle East and are using the Cubans as their mercenaries. The Kenyans are not very concerned over the Soviet or Cuban presence and, as you know, were supportive of their intervention in the Ogaden. Sudan views the Soviet role as divisive, harmful and threaten Ing Eo Nimeiri’s regime.*”³³ It was also underlined

³¹ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 43

³² Zbigniew Kazimierz Brzezinski (March 28, 1928 – May 26, 2017) was a Polish American diplomat and political scientist. He served as a counsellor to President Lyndon B. Johnson from 1966 to 1968 and was President Jimmy Carter's National Security Advisor from 1977 to 1981.

³³ United States National Security Council Special, Memorandum for president: *Soviet and Cuban roles in Africa* (1978).

in the following years, on April 29th, 1980, the CIA operator Paul B. Henze³⁴ stated that *“Our minimal objective has been to maintain relations with all countries of the region with the aim of increasing our influence and reducing Soviet and Cuban influence in the area. [...] We are actively pursuing establishing of facilities in Kenya and Somalia and may wish to seek facilities in Djibouti and Sudan in the future. We aim to improve the human rights situation in all countries of the region, bring an end to persistent hostilities (Eritrea, Ogaden) and help mitigate severe refugee problems.”*³⁵

In the document *"Call by president Nimeiri of Sudan"* on June 14th, 1980, it is possible to find the relationships between UK and Sudan. The document stated that *"Our relations with the Suidan are in excellent shape, largely due to our decision to honour a commitment to help finance a major project (Power III) to increase the supply of electricity to the three towns of the capital and surrounding agricultural areas. Nimeiri has described our relations as a source of pride and affection. We remain the Sudan's main supplier and provide training for her armed forces both in the UK and through a British Army Training Team in Thartan. She has become the largest recipient of t aid outside the Commonwealth. [...] In recent years the Nimeiri regime has been consistently friendly towards the West and helpful to us over such issues as Rhodesia (when Nimeiri was OAU Chairman in 1978), and more recently in her response to the Soviet invasion of Afghanistan. Without taking the lead she has supported strong condemnation of Soviet. action by the Islamic conference. Nimeiri has taken a consistently moderate and statesmanlike stance on many African issues. Since achieving a peaceful settlement of the Sudan's longstanding (North v South) Civil War in 1972 he has consistently advocated the peaceful settlement of other African disputes for example in Rhodesia, Chad, the Western Sahara, the Ogaden and Eritrea and Uganda.”*³⁶

³⁴ Paul Bernard Henze (29 August 1924, Redwood Falls – 19 May 2011, Culpeper) was an American broadcaster, writer and CIA operative. Henze encouraged Zbigniew Brzezinski in the formation of the Nationalities Working Group in 1978, of which Henze was appointed head. Influenced by his friend Alexandre Bennigsen, this group advocated the promotion of Islamism as a tool for undermining Soviet hegemony.

³⁵ United States. National Security Council. Staff. (1980). [Horn of Africa; includes attachment]

³⁶ 1980 Jul 14 Mo, Archive (TNA), Prime Ministerial Private Office files, Sudan: FCO briefing for MT ("President Nimeiri of the Sudan") [Ethiopia/Eritrea; the President's health/observance of Ramadan] [declassified Aug 2013].

From the economic point of view, according to the CIA's unclassified sources, on May 15, 1978, during a meeting on the Horn of Africa, the US government stated that: *“The need to be responsive to Sudan's economic plight was recognized; however, all agreed that there was little the U.S. could do until the Sudan qualifies for an IMF loan, which means devaluation. In view of the importance of Sudan and the implications for Sadat of any setback there, it could be helpful to raise the problem privately with the IMF, particularly if the Saudis could be persuaded to increase their offer of assistance as an incentive for prompt remedial action by the Sudanese. It was proposed that this subject be raised with Saudi Foreign Minister Saud in his forthcoming visit.”*³⁷

The Sudan's first economic crisis came in 1977–8 when its debts fell due, and it was unable to pay them. This was to have far-reaching external and internal political consequences, which in turn accelerated the reorientation of the Sudan's economy. Externally, the Sudan became dependent on the US, not only to negotiate the rescheduling of the Sudan's debt and further loans from the IMF, but for foreign aid through USAID (the Sudan was the largest recipient of US foreign aid in sub-Saharan Africa, receiving more than \$1.4 billion in all). Internally, Nimeyri brought back his Islamist opponents (the Umma and the Muslim Brothers) through 'national reconciliation' in order to guarantee political stability. The condition the US and IMF imposed for their financial support in the early 1980s was the forced reduction of the state budget and the privatization of nationalized corporations. The condition the Islamists imposed for 'national reconciliation' was the reform of the law The Addis Ababa Agreement & the Regional Governments 1972–83.

in conclusion, from what has been write above, it may be stated that the global oil crisis, which also hit the African states hard, together with the strategy of the major powers to support Islamic parties in an anti-Soviet key, were the main causes of the dramatic events that in 1983 led to the outbreak of the second Sudanese civil war.

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³⁷ United States National Security Council Special, Coordination Committee. (1978). Horn of Africa

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As was shown in the first part of the chapter to understand the causes of the Sudanese civil wars it was necessary to trace the historical evolution of Sudan since the nineteenth century. The *settler* attitude that has always characterised the North Sudanese is one of the root causes of the civil wars. The desire to *Islamise* the whole of Sudan and the subaltern conception of the South Sudanese in relation to the Arab Sudanese in the north is certainly a cause of deep religious-ideological division. The arrival of the British in the end of the nineteenth century did not help in this regard. As has been shown, the British objective of weakening Egyptian influence in the area by dividing the Sudanese into two separate provinces increased the differences between north and south without any hybridization of the two cultures. These cultural and ideological differences persisted even during the period of the formation of Sudan as an independent nation-state and exploded immediately during the first Sudanese civil war. At that time, the global polarisation between the Warsaw Pact and the Atlantic Pact did not allow the international community to play a more active role in the region. The area of Northeast Africa was used only as an "indirect" battleground between the two superpowers and their allies. The main victims were the civilians, especially in the south, tormented by a long civil war that caused economic instability and inhuman and degrading living conditions. In that period a key role was played by Christian organizations that were the only ones to encourage meetings between the parties with the aim of obtaining peace. As

we will see in the next chapter, the Sudanese civil conflict will go through all the stages of the Cold War and then the fight against Islamic terrorism that began after the fall of the Berlin Wall, however, in the 70s the goal of the super powers to reduce Soviet interference in Africa led to endorse the instances of Islamism that were growing and as we shall see will lead to the outbreak of the second Sudanese civil war.

2. The role of the international community in the second Sudanese civil conflict

The second chapter will analyse the Second Sudanese Civil War and the peace process that led to the signing of the Comprehensive Peace Agreement (CPA) between the Government of Sudan (GoS) and the South Sudan People's Liberation Movement (SPLA) in 2005. The historical reconstruction of events will also be aided by the declassified sources of the British government during prime minister of thatcher. The role and criticism of the United Nations humanitarian operations will be show. Through world events and their repercussions on the Sudanese civil war, the role of the U.S. and U.K. and the Intergovernmental Organization for Development (IGAD) in the peace process will be described. At the end of the chapter will be analysed the first peacekeeping mission in Sudan (UNMIS) established by the Security Council of the United Nations in 2005, UNMIS will be responsible for monitoring CPA, ceasefire, and respect for human rights.

The second Sudanese Civil war until the end of the Cold War (1983-1989)

The fear of the start of a new civil war began in 1981, when Nimeiri began a dramatic shift toward Islamist political governance, and he allied him-party with the Muslim Brotherhood. In 1983, the Sudanese President imposed Sharia, throughout the country. Nimeiri reformed the administrative boundaries of the south, in violation of the Addis Ababa Agreement he also dissolved the southern Sudanese government.

The imposition of Sharia law on southern Sudan was seen as a declaration of war by the central state against the southern provinces. This was the opportunity for the Sudanese People Liberation Army/movement (SPLA/M) to stand as the only movement defending the rights of the South Sudanese people against the Arab oppressor of the north. Indeed, according to J. H. Douglas "*The SPLM/SPLA's strategy, therefore, was to treat the South's specific grievances within the context*

*of underdevelopment and unequal development throughout the Sudan, and to try to establish a progressive movement which was not 'concerned only with the South, jobs and self interest'. It declared its intention of bringing all current guerrilla units in the southern Sudan under one united, integrated liberation army which was not organized on tribal lines. It identified its potential friends and allies as 'progressives' throughout the Sudan, Africa and the world.'*³⁸

Thanks to the Margaret Thatcher Foundation archive, it is possible to read the discretised communications between Sudanese President Nimeiri and the *Iron Lady* that took place in December 1983, in the first months of the outbreak of the second Sudanese civil war. In the online archive it is possible to find the extract of a phone call dated Friday, December 8th, 1983 (3/15 pm) in which it is possible to understand the concerns of Thatcher, indeed, in the declassified text states that "*Our reports on President Nimeiri's recent visits to Paris and Washington show that, though both the French and the Americans share our anxieties about the effect of President Nimeiri's Policies on the Southern Sudan, both failed to express their concern to him. This is a pity because it will tend to confirm President Nimeiri in his opinion (which we believe to be misguided) that the troubles in the South are largely due to Ethiopian meddling, and not to discontent at his own policies [...]. Have heard about recent changes that the President has introduced on the internal scene. Would be very interested to learn from him personally the reasons for them, the progress being made with them, and how he thinks they have been received. [...] Sudan was under British Administration from 1898 to 1956 and her ties with Britain remain strong and friendly. Our civil aid was €30m in 1983/84 including refugee assistance. Programme concentrates on essential infrastructure including power and natural resource development. [...] Sudan also receives significant military assistance [...] The Sudanese are in deep trouble financially and look to us for both political and economic help, with the IMF, the Paris Club and in arranging additional emergency aid. President Nimeiri's regime is friendly and pro-Western taking a moderate line on the Middle Eastern conflict and a constructive line on African problems. The Sudanese have been constantly helpful over the Falklands*

³⁸ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 64

question. There is a continual flow of Sudanese ministers and businessmen to London. [...] The President's recent policies towards the South have led to an increasing number of irritations in our relations which may well worsen as the situation deteriorates: The introduction of Islamic law in September 1983 and the absences of guidance as to how far it will be applied to non-Muslim has led to a deterioration in relations between North and South and a consequent worsening of the security situation. [...] President Nimeiri is reported as claiming that the British are leading a public conspiracy against his Islamic reforms. [...] Nevertheless, following a period of quiescence brought about by the Addis Ababa agreement of 1972 which brought to an end the 17-year civil war between North and South, relations between North and South have again deteriorated. intervention (by Libya and Ethiopia) this has been brought about Despite Nimeiri's claims of foreign. largely by his own policies which Southerner's regard as an abrogation of the 1972 agreement. [...] Then in June Nimeiri decreed that the Southern region should be redivided into the three old regions, an act which sought to profit from traditional rivalries temporarily set various tribal groups and regional interests against one another. Finally in September he introduced Islamic Law which is seen by all Southerners as a serious threat and which seems, in the absence of any concessions by Nimeiri, likely to unite them against the Muslim North and lead the country back to civil war.”³⁹

Margaret Thatcher's concerns about a new civil war are very clear from the text reported above. Indeed, in the historical context of the early 1980s, Sudan played a key role in the international political chessboard of the Horn of Africa, as its historical relations with the Western superpowers the state guaranteed an outpost against the other socialist states in the area. Thatcher's concerns were also grounded about the ideology of the SPLA/M, which was totally different from the liberal attitude that had characterised the South Sudanese people from the period of Anglo-Egyptian rule onwards. Indeed, during the 80s the SPLA/M was a mix of different socialist theory that those mostly came from Ethiopian influences. On 1983 the SPLA/M published its manifesto stating that "*revolutionaries [...] dedicated to the*

³⁹ **Sudan:** FCO briefing for MT ("Call by President Nimeiri: Aid") [*supplementary brief on aid, with general briefing attached*] [*declassified Aug 2013*], available at www.margaretthatcher.org/

socialist transformation of the whole country [...] reactionary movement [...] concerned only with the South, jobs and self-interest. [...] the separatist attitude [...] threatened the total disintegration of Sudan"⁴⁰. The initial objective of the SPLA/M was not to demand the right to self-determination but a substantial change of the whole of Sudan to a socialist state. This triggered divisions within the South Sudanese movements, resulting in the creation of a new Anya-Nya II group made up of former South Sudanese military commanders who commanded during the first civil war. There were several tensions mainly on ethnic grounds between the two liberation groups. According to Professor Matthew LeRiche "*Ideologically, Garang's victory over the Anya-Nya II was significant [...] With his gradual consolidation of control over the rebelling groups, Garang implemented a long-term strategy to assert control over Southern Sudan. Based on his readings of economics, military strategy and history, Garang chose to close access to outside resources for all other Southern political or armed groups. With exclusive support from the major power in the region willing to aid an insurgency in Sudan, Garang would then be the only option for people if they were to fight against Khartoum.*"⁴¹

These tensions were calmed by the military strategies of the commander-in-chief J. Garang who succeeded in reunifying the South Sudanese movements, but the tensions were only frozen because the tensions between the different ethnic groups in South Sudan erupted with dramatic consequences a few years after South Sudan gained its independence, as it will be shown in the next chapter.

Militarily, SPLA/M was supported by the Ethiopian communist regime. South Sudanese rebels attacked the oil infrastructure mainly in the Upper Nile and Bentiu areas. Unlike the first civil war, the military strategy was to move the battlefield towards the northern borders. According to J. H. Douglas "*the SPLA were able to move the war out of the South into Blue Nile, Southern Kordofan (including the Nuba Mountains) and Darfur. [...] The SPLA even succeeded in crossing from Ethiopia to take the Northern border towns of Kurmuk and Qaissan with Ethiopian help in November 1987. While the government concentrated on retaking these two*

⁴⁰ SPLA/M, *Manifesto*, 31 July 1983.

⁴¹ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 66-67

towns (readily abandoned by the SPLA), the SPLA was able to take Kapoeta near the Kenyan border, a much more useful prize.”⁴²

The SPLA/M's ability to be the focal group for South Sudan's rebels allowed the movement to effectively control a large portion of territory corresponding to modern South Sudan, allowing the SPLA to concentrate its military forces on the border and in economically strategic areas without having to militarily control all South Sudan's territories.

The war engaged in by Sudanese President Nimeiry against the southern rebels was extremely costly to the state, so the government was forced to increase gradually taxes, to continue the fight. On 6 April 1985, while Nimeiry was on an official visit to the United States of America in the hope of obtaining more financial aid from Washington, a bloodless military coup led by his defence minister, General Abdel Rahman Swar al-Dahab, ousted him from power. In the following elections, pro-Islamist leader Sadiq al-Mahdi, who had attempted a coup against Nimeiry in 1976, became Prime Minister. The Muslim Brothers played a crucial role in the coup. According to Matthew LeRiche “*the Intifada that brought down the regime was spurred by the Sudanese offspring of the Muslim Brotherhood [...] who encouraged mass street protests and union strikes and was facilitated by a dire economic situation. [...] ‘Nimeirism’—as it had often been called—was dead.*”⁴³

The fact that the Muslim brothers actively supported the protests against Nimeyri made it clear that Sharia would not be abrogated in the southern region. Although not all South Sudanese groups agreed with the decision not to participate in the post- Nimeyri transition, the SPLA/M decided not to take part in the elections that brought the new president Sadiq al-Mahdi assumed power. Al-Mahdi decided on a harder line towards resolving the southern problem; he preferred to intensify the military effort rather than negotiate, justifying Garang's position that there was little political will in Khartoum to negotiate in good faith. Al-Mahdi's inclination for a

⁴² JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 84

⁴³ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 70

military solution was linked to his political dependence on the Islamists and the army, both of whom wanted a harder line against the recalcitrant Garang.

UN Operation Rainbow and Operation Lifeline (1986-1990)

In 1994 in the *Columbia Journal of International Affairs*⁴⁴, Professor Judith Mayotte⁴⁵ defined food as a weapon used by both sides in a conflict to achieve military results in the field, J. Mayotte stated that " *Under the leadership of first Prime Minister Sadiq Mahdi and later, Lieutenant-General Omar Bashir, the war in the south proved to be the most vicious and deadly on the African continent. Following the August 1986 downing of the civilian aircraft by the SPLA, which had effectively halted the airlift of relief supplies, Mahdi retaliated with a blatant and vengeful use of food as a weapon, and the SPLA reacted in kind. In 1988 alone, more than 250,000 southern Sudanese died from starvation as the military leaders on both sides refused to allow food to reach civilian populations believed to be loyal to one side or the other. The greatest numbers of the dead were women, children and the elderly. One hundred eighty thousand of the dead were said to be children. Only a few thousand were members of the military*"⁴⁶. Mainly for this reason, the United Nations decided to intervene in the internal conflict to ensure food supplies for civilian populations battered by civil war.

The Operation Rainbow was the first UN interventions on Sudan civil wars context, it was launched in 1986 with the support of several governments⁴⁷, UN international

⁴⁴ Mayotte, Judy. "Civil War in Sudan: The Paradox of Human Rights and National Sovereignty." *Journal of International Affairs*, vol. 47, no. 2, 1994, pp. 497–524.

⁴⁵ Judith Ann Mayotte (born January 25, 1937) is an American humanitarian, author, theologian, producer, former Catholic religious sister, ethicist, and university professor. In 1994 Mayotte was appointed by the first Clinton Administration to the U.S. Department of State, Bureau of Population, Refugees, and Migration as a Special Adviser on refugee issues and policy. Before joining the State Department, she was Chairwoman of the Women's Refugee Commission, and served on the board of Refugees International.

⁴⁶ Mayotte, Judy. "Civil War in Sudan: The Paradox of Human Rights and National Sovereignty." *Journal of International Affairs*, vol. 47, no. 2, 1994, page 507.

⁴⁷ Australia, Austria, Bahrain, Canada, Federal Republic of Germany, Denmark, France, Italy, Japan, Netherlands, Norway, Sweden, Switzerland, US, UK

organisations⁴⁸ and NGOs⁴⁹. The operation was under the management of the World Food Programme (WFP). The objective of the operation was the support civilian populations, the idea was to use planes to fly relief packages to areas that were particularly devastated by the conflict.⁵⁰

The UN did not want to take a side of the conflict, indeed, the "food neutral program" where food aid would be equally provided to both the Sudanese government and the SPLM/A. One of the first tests of this neutral model came with the attempted concurrent distribution of aid to the SPLM/A held city of Yirol and the government held city of Wau. The Sudanese government, fearing the negative attention of the international media because of the terrible situation in the areas devastated by the conflict, decided to refuse the aid tranches. Even when Nimeiri's presidency was replaced by Sadiq al-Mahdi things did not change, the GoS. The SPLM/A decided to similarly oppose the principle of neutral food aid and formed its own humanitarian organization known as the Southern Relief and Rehabilitation Association (SRRA).⁵¹

Professor J. Mayotte highlines that *"while tens of thousands died from starvation, both rebel and government troops continued to obstruct the delivery of emergency relief. The warring parties blew up escorted convoys, held other convoys for months before allowing them to proceed and frequently absconded with food intended for starving civilians. While in power, Mahdi and his government denied there was a famine and refused Western relief workers access to war and drought-stricken areas. In late 1988, the Western public realized through the media the extent of the massive starvation among southern Sudanese. [...] Neither the SPLA nor the government were motivated by humanitarian principles in allowing the safe delivery of food to civilians in war zones. Both sides to the conflict clearly agreed to a cease fire for strategic reasons. The SPLA had gained a great deal of territory*

⁴⁸ UN Development Programme (UNDP), UN Industrial Development Organisation (UNIDO), UN High Commissioner for Refugees (UNHCR), UN Children's Fund (UNICEF), World Food Programme (WFP).

⁴⁹ CARITAS international, OXFAM, World council of churches, world division.

⁵⁰ UN department of Humanitarian Affairs, *Sudan Drought/Insecurity/Pest Infestation*, Aug 1986 UNDR0 Situation Reports 1-6, available at: <https://reliefweb.int/report/sudan/sudan-droughtinsecuritypest-infestation-aug-1986-undro-situation-reports-1-6>

⁵¹ The information about SRRA is available at: <https://www.enonline.net/fex/6/agencyprofilesrra>

*in the south. It needed to consolidate its gains and review its strategy to maintain its hold. The government's losses, on the other hand, spurred its troops to devise a new course of actions.”*⁵²

In April 1988, during the 33rd plenary meeting of UN General Assembly required a new humanitarian operation in Sudan. Indeed, according to the UN report, the UNGA stated that “*Considering that over 120,000 hectares of cultivated land and over 7,000 small farmers schemes were dated, and about 600 villages and islands have completely disappeared and thereby over 1.5 million persons were left without shelter or food. Fully cognizant of the economic difficulties already faced by the Sudan, particularly resulting from its high level of indebtedness and compounded further by a massive influx of refugees and 2 million displaced persons [...] Noting with appreciation the response to date of various countries and intergovernmental and non-governmental organizations in emergency relief operations. [...] Call all States to combat generously and respond urgently and effectively to the needs of relief operations, rehabilitation and reconstruction. Request the Secretary-General, in the operation with the Government of the Sudan coordinate efforts of the United Nations systems to help the Sudan in its emergency, rehabilitation and reconstruction*”⁵³

The Operation Lifeline Sudan (OLS) was led by FAO with the intention of reducing food insecurity, hunger and rural poverty as well as ensuring a sustainable increase in food supply and availability. The ultimate goal of the mission was to promote agriculture and food security as a means to mitigate conflict and improve peace. As during the Operation Rainbow, FAO was supported by several UN organisations and agencies⁵⁴ that played a supporting role in the operation. Once again, the UN mission was aimed at countering the humanitarian emergency that had arisen as a result of the long ongoing conflict. Obviously, it would have been difficult for the

⁵² Mayotte, Judy. “*Civil War in Sudan: The Paradox of Human Rights and National Sovereignty.*” *Journal of International Affairs*, vol. 47, no. 2, 1994, pages 508-509

⁵³ UNGA, *Resolutions adopted by the General Assembly at its 43rd session (A_RES_43_8_E)* April 1988.

⁵⁴UN – Office for Coordination of Humanitarian Affairs (OCHA), UN High Commissioner for Human Rights (OHCHR), UN High Commissioner for Refugees (UNHCR), UN Development Programme (UNDP), UN Population Fund (UNFPA), UN Children’s Fund (UNICEF), UN Industrial Development Organisation (UNIDO), UN Emergency Mine Action Programme in Sudan (UNMAS), World Health Organisation (WHO), World Food Programme (WFP).

UN to play a role in resolving a conflict due to the political instability of the whole area but firstly because, according to the international customary law, the conflict was not an international one. However, according to Lam Akol⁵⁵, *“Although the UN does not confer formal recognition of any kind to the SPLA, it had to deal with it in order to reach the needy population. [...] For the first time in the SPLA’s history, journalists were milling around in previously out of bounds SPLM/A-administered areas. There was a profound connection between OLS and opportunities for peace-making, even if peace was not its stated aim.”*⁵⁶

Unlike Operation Rainbow, OLS was welcomed by South Sudanese rebels who interacted with UN officials and unilaterally declared a "ceasefire" shortly after UN operations began. The SPLA/M initiative had a twofold objective, firstly to allow humanitarian aid into SPLA controlled territories but also to begin peace process. Unfortunately, according to the South Sudanese politician, *“The ceasefire collapsed in October 1989 with renewed fighting on a number of fronts. In November, the military junta suspended all OLS relief flights to southern Sudan. It saw the relief operation as feeding its enemies. Thus, the breakdown of the ceasefire led to the breakdown of the humanitarian partnership with the Government of Sudan. The renewed fighting brought about a new peace initiative mediated by former US President Carter and talks took place in Nairobi in November-December 1989. These efforts were undertaken in close co-ordination with the US government.”*⁵⁷

It is possible to state that the fragmented structure of the UN, consisting of separate and independent agencies, was at the heart of the lack of effective functioning and without a strong chain of command. The UN must be unable to deal with the Sudanese government, arbitrary decisions by government officials hindering relief operations. However, the OLS was successful starting peace processes between the fighting parties. Despite its difficulties, it was highly appreciated by the rebels and

⁵⁵ Lam Akol, or Lam Akol Ajawin, is a South Sudanese politician of Shilluk descent. he founded on 6 June 2009 as "Sudan People's Liberation Movement - Democratic Change". He is a former high-ranking official in the Sudan People's Liberation Army (SPLA), and subsequently became the Foreign Minister of Sudan from September 2005 to October 2007, when the Khartoum government offered the SPLA several other key ministries as part of a peace agreement.

⁵⁶ Lam Akol, *Operation Lifeline Sudan: war, peace and relief in southern Sudan*, Conciliation Resources, 30 Jun 2005, available at: <https://reliefweb.int/report/sudan/operation-lifeline-sudan-war-peace-and-relief-southern%C2%A0sudan>

⁵⁷ *Idem.*

the people of South Sudan. Indeed, according to L. Akol “*OLS was innovative in that it was one of the first post-Cold War UN-led humanitarian programmes. It came at a critical historical moment of changing notions of sovereignty, intervention, and engagement with non-state actors. It was the first time that the UN had to deal with a non-state armed group without conferring recognition upon it. With regard to peace, a number of developments took place in this period. [...] However, it is evident that the initiative created an atmosphere conducive to peace as demonstrated by the accelerated peace efforts during its early period. Although other developments in Khartoum and within the SPLM/A slowed down this process, it is significant that the Inter-Governmental Agency for Development (IGAD)-mediated talks started with an agreement on relief issues in 1994. As with OLS, this agreement helped the parties to start talking about the political issues.*”⁵⁸

The start of peace process

As has been shown above, the Sudanese government had lost the historic support of the Western powers due to its political choices to support the Muslim brothers. At the same time SPLA/M was helped by USSR through the Ethiopian regime to control and administrate large portions of the South Sudanese territories. Ethiopia had been a key ally for SPLA/M commander Garang not only militarily but also in terms of economic support in the areas controlled by the SPLA/M. The 1991 was a watershed year for the beginning of the peace process. The war scenario suffered from the international division into two blocs until 1991. According to researcher D. H. Johnson “*The collapse of the Mengistu government in Ethiopia in May 1991 seriously reversed the SPLA’s military momentum. The SPLA refused to enter into any talks with the Ethiopian rebel groups [...] The new Provisional Government of Ethiopia was not only hostile to the SPLA but had close links with the Sudanese army. It handed over all of the old Ethiopian government’s security files on the*

⁵⁸ *Idem.*

*SPLA. There was a very real possibility that Ethiopia would allow the Sudan army to launch attacks on the SPLA from their territory.”*⁵⁹

In the same year, there were also internal changes in the SPLA/M's chain of command that did not depend on the international scenario: the split of the movement. A group of military commanders led by Akol and Machar⁶⁰ sharply criticised Garang's decision not to collaborate with the Ethiopian rebels. The group of 'splitters' demanded Garang's removal so that a process of democratisation of the movement could begin. These strong stances were called the 'Nasir plot'. According to Matthew LeRiche, the presence of international humanitarian organisations in Sudan played a fundamental role in the division of the movement. Indeed, in the book “South Sudan. From revolution to independence” he states that “*Present in Nasir when the coup attempt was announced were senior UN and NGO staff. [...] Machar and Akol had been courting the humanitarian agencies, expressing a willingness to improve humanitarian access in the South. Moreover, the two believed that if some sort of international recognition could be achieved, thereby securing a degree of legitimacy, the effort to topple Garang would be greatly furthered. The international presence, in the form of Operation Lifeline Sudan (OLS), did in fact work with the Relief and Rehabilitation Association of South Sudan (RASS), the relief organisation Machar and Akol established shortly after the coup was announced. This recognition by the UN and other aid organisations resulted in perceptions that aid organisations were collaborating against Garang.*”

61

After Nasir's plot, fighting between the factions of the SPLA began rapidly. Machar's SPLA/M-Nasir forces began fighting with the SPLA in the Bor and Kongor areas of Jonglei State in late 1991. Machar's force consisted of many remnants of Anya-Nya II. During this period there was brutal fighting between the different factions especially in the Bor and Kongor areas: widespread civilian

⁵⁹ JOHNSON, DOUGLAS H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Page 88

⁶⁰ Riek Machar Teny Dhurgon (Leer, 1953) was a South Sudanese politician who serves as the first Vice President of South Sudan.

⁶¹ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 78

deaths, child abduction, rape and looting, which became known as the Bor Massacre. The dramatic nature of the events raised doubts about the alleged motives of the SPLA/M-Nasir.

According to Matthew LeRiche, "*Machar and Akol, both intellectuals and outspoken politicians, had been able to cultivate initial interest abroad in their new group, particularly because of their emphasis on human rights and democracy, and their willingness to allow humanitarian organisations access to suffering populations. With the [Bor] massacre, these initial considerations and opinions were quickly dampened.*"⁶²

It was in this context of war and massacres that the Organisation of African Unity (OAU) and especially the Intergovernmental Authority on Development (IGAD)⁶³ decided to initiate peace processes between the Sudanese government and rebel groups in southern Sudan.

The role of IGAD and major powers during first phase of Peace process (1988-1997)

The Intergovernmental Authority on Drought and Development (IGADD) was a regional international organisation founded in 1986 by Djibouti, Ethiopia, Somalia, Sudan, Uganda and Kenya, with a focus on development and environmental control. In 1996 the organisation switched the name to Intergovernmental Authority on Development (IGAD) to emphasise a shift from the original focus on food emergency and food insecurity towards a long-term cooperation approach. International recognition was increased at the end of 1994 when the United States, the Netherlands, the United Kingdom, Norway, Italy and Canada under the name

⁶² *Ibidem.* Page 85

⁶³ The Intergovernmental Authority on Development (IGAD) is an eight-country trade bloc in Africa. It includes governments from the Horn of Africa, Nile Valley and the African Great Lakes. Its headquarters is in Djibouti City. Member states: Djibouti (founding member, since 1986) Ethiopia (founding member, since 1986) Somalia (founding member, since 1986) Eritrea (admitted 1993, withdrew 2007, readmitted 2011) Sudan (founding member, since 1986) South Sudan (admitted 2011) Kenya (founding member, since 1986) Uganda (founding member, since 1986).

“*Friends of IGADD*” financially supported the regional organisation in its peace-building role and regional initiatives.

According to professor Abdelwahab El-Affendi⁶⁴ “[IGADD] *took five years of negotiations before the regional body came into existence, and five more before the organization began to attain a modicum of functionality.*”⁶⁵ However, the professor of University of Westminster noted that “*The assumption of the role of a regional peacemaker had the immediate effect of extending IGADD's mandate well beyond its original minimalist task of environmental co-operation and raising the organization's national profile.*”⁶⁶

In 1993, IGADD mandated Kenya, Uganda, Ethiopia and Eritrea to undertake peace negotiations, under the chairmanship of President Daniel Arap Moi of Kenya. IGADD established a standing committee to find a peaceful solution to the conflict in Sudan in 1994, and negotiations between the SPLM/A and the government began in Nairobi the same year. Lt. Gen. Malual Ayom Dor⁶⁷ in his PHD thesis titled “*Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*” highlights that a few little progresses were made during the first period of the peace process “*because disagreements over the issue of self-determination of the South prevented discussions from moving forward as the Sudanese government threatened to boycott if the issue of self-determination was on the agenda.*”⁶⁸

On February 26, 1993, a van bomb exploded in the underground parking lot of the World Trade Center in Manhattan. The 1993 World Trade Center bombing greatly

⁶⁴ Abdelwahab El-Affendi is a professor at University of Westminster, he taught MA courses on Democracy and Islam and Islam and Modernity and undergraduate courses on Modernity in the Arab world and Issues and Debates in Middle Eastern Politics

⁶⁵ El-Affendi, Abdelwahab. “*The Impasse in the IGAD Peace Process for Sudan: The Limits of Regional Peacemaking?*” *African Affairs*, vol. 100, no. 401, 2001, 581–99. page 583

⁶⁶ *Ibidem*, page 584

⁶⁷ Lt. Gen. Malual Ayom Dor started his military career in the SPLA in 1983 and progressed until he reached the rank of Lt. General. Previously Lt. Gen. Malual was the SPLA Assistant Chief of defence Force for Operations, Training and Intelligence. Lt. Gen. Malual holds Doctor of Philosophy in War Studies at King’s College London, University of London, and a Master of Research degree in War Studies from King’s College London and a master’s degree in International Relations and Diplomatic Studies from Makerere University, Uganda and bachelor’s degree in international Relations from United States International University Nairobi.

⁶⁸ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 158

exacerbated the Islamic counter-terrorism policy and Sudan became a target of the U.S. counter-terrorism offensive due to its policy of harbouring known terrorists such as Osama Bin Laden, Ayman al-Zawahri, Omer Abdel Rahman⁶⁹, and Carlos the Jackal through an umbrella organization known as *the Arab Islamic People*. According to Lt. Gen. Malual Ayom Dor the determined US opposition to the government of Sudan led to numerous battlefield victories by South Sudanese rebels in those years, for example *“The military balance had tilted in favour of the SPLM/A by 1997, which together with its new ally, the National Democratic Alliance (NDA), launched two major offensives, sweeping through much of the Eastern Equatoria region in the South and gaining much ground in Blue Nile Province [...] These offensives enjoyed the covert external support of the USA and neighbouring countries (Ethiopia, Eritrea and Uganda), despite their formally neutral status in charge of a negotiated solution to the conflict.”*⁷⁰

In January 1994, several peace talks were held between IGADD mediators and the parties to the conflict. The agenda of the first round (17-23 March) resulted in an agreement that allowed for better access to relief. during subsequent meetings the mediators proposed a draft six-point 'Declaration of Principles' (DoP).

According to professor Abdelwahab El-Affendi the DoP *“became the main agenda item in the July round (19-29 July), which witnessed the arrival in Nairobi of the newly appointed Special Representative of the President of the United States, Ambassador Melissa Wells. The DoP faced the parties with a stark choice between accepting a secular state and allowing the South to opt for independence. It committed them to a peaceful resolution of the conflict and affirmed the right of the South to self-determination, while calling for priority to be given to unity on the basis of agreement on a secular, pluralist democratic polity that would undertake to respect human rights and to decentralize administration. Failing that, a*

⁶⁹ sentenced by the U.S. to life in prison for seditious conspiracy during the WTC bombing trial

⁷⁰ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 160

*referendum should be organized to allow the South to exercise its right to self-determination.”*⁷¹

The peace negotiations came to an abrupt halt after the presentation of the DoP because the government of Sudan deemed the proposal for self-determination for South Sudan inadmissible, which led to a drastic slowdown in the peace process, according to professor Abdelwahab El-Affendi “*The process then became deadlocked ground of serious deterioration in bilateral relations between Sudan and most of the mediating countries, starting with Eritrea severing relations in December 1994. [...] The motive of IGADD leaders in taking up the task of mediation was first to integrate and contain Khartoum in the interest of regional stability. However, their stance depended on Khartoum's readiness to accommodate their concerns.*”⁷² As all the states that were mandated by IGADD to negotiate peace broke off political relations with the government of Sudan, the regional organisation itself declined in importance. professor Abdelwahab El-Affendi underlined that “*it has nevertheless been argued that mediators must be at least friendly to the party/parties they seek to deliver to the agreement, a characteristic IGADD lost when its members become unanimously hostile to Khartoum. This was compounded empathized with Khartoum's outlook, a great handicap given by 'heavy identity aspects of the conflict'. As IGADD became increasingly openly partisan, it lost its ability to influence the government, while leaders became less and less keen on pursuing a settlement that could benefit a hostile regime.*”⁷³

In 1994, Professor J. Mayotte analysed the failure of the international community to mediate the conflict. Despite numerous condemnations by the western powers, the United Nations and the commission on human rights, relations between the parties to the conflict and the international community remained pretextual. “*So far, all efforts towards peace between the government of Sudan and the SPLA have failed. [...] If Bashir agrees to talk or to a cease fire, he does so in an attempt to*

⁷¹ El-Affendi, Abdelwahab. “*The Impasse in the IGAD Peace Process for Sudan: The Limits of Regional Peacemaking?*” African Affairs, vol. 100, no. 401, 2001, 581–99. Page 585

⁷² *Ibidem*, page 586

⁷³ *Idem*

improve his government's image before the international community. Garang uses the extra time to address the needs of the internecine conflict within the SPLA. The security of civilians is not paramount for either side in the conflict. Yet the needs of civilians, especially women and children who are most affected by this long-standing war, must be addressed, if not by the parties to the conflict, then by the international community.”⁷⁴

The American professor underlined how to achieve peace it would be necessarily go beyond the delivery of relief. She suggested creating demilitarized zones agreed upon by all parties to the conflict and monitored by NGOs and the UN. The change of course in the achievement of peace, as J. Mayotte pointed out in an optimal way in 1994, will be possible only by addressing the complex issue of national sovereignty and the protection of human rights. national sovereignty and the protection of fundamental human rights of and humanitarian access to internally displaced persons.

In 1994, J. Mayotte suggested that *"the international community also has an opportunity to create a new era. Because of its position among the world's nations, particularly among the industrial democracies with the capacity to act cooperatively, and because of its commitment to the advancement of human rights, the United States can and must take the lead. It can begin by exchanging the paradigm of "superpower" for one of "leadership." [...] In the interest of collective action, governments which comprise the United Nations have the opportunity to create the organization envisioned by its founders. Its divisions and branches must be reorganized and reshaped to work together for the good of the whole. [...] To achieve these goals in a new era and to ensure that national sovereignty will not be abused will take uncommon moral will, indomitable spirit, and substantial, purely humanitarian funding. The world cannot afford politically, strategically or morally to act otherwise. It is vital to national interest and to the peace and security of the*

⁷⁴ Mayotte, Judy. "Civil War in Sudan: The Paradox of Human Rights and National Sovereignty." *Journal of International Affairs*, vol. 47, no. 2, 1994, 497–524. Pages 518-19

*world that the collective human rights of people within nation-states transcend absolute national sovereignty”*⁷⁵

In the second half of the 1990s, divisions within the South Sudanese movement increased, indeed according to Professor Matthew LeRiche "*The SPLA-Nasir had itself splintered shortly after its founding. Among a plethora of smaller groups, Machar formed the South Sudan Independence Movement (SSIM), while Akol stayed with the remnants of the SPLA/M-United.*"⁷⁶

Riek Machar began to negotiate with the South Sudanese government, pursuing the strategy of 'peace from within'. On 10 April 1996, Machar reached an agreement known as the 'Peace Charter with Khartoum'. The agreement was intended by the GoS to keep Sudan united under a federal system but with sharia as the basis for government throughout the country.

The personal goal of Machar was to become the main official leader of southern Sudan in the eyes of Khartoum. According to Professor Matthew LeRiche "*The 1996 Peace Charter was significant for a number of reasons. It cost Machar much of his credibility in the South. While officially demanding secession, he was flagrantly working with/for Khartoum. Arguably even more problematic was his acceptance of sharia law as a basis for the state. Southerners may have disagreed about the structure of Sudan, but there was near universal consensus against sharia. Machar defended himself by highlighting the fact that the Agreement included a provision that Khartoum would accept Southern self-determination.*"⁷⁷

This agreement led to a new dispute within the different South Sudanese groups, the two main nodes of disagreement revolving around the referendum on independence and the application of Sharia law. The following year, these agreements led to a more significant agreement between southerners opposed to the SPLA/M and Khartoum, known as the 'Khartoum Agreement'. Accepted on 21 April 1997, it covered both governance and security issues, and was signed by Riek Machar, Kerubino Bol and Arok Thon Arok, among others. The agreement created

⁷⁵ *Ibidem*, pages 523-524

⁷⁶ LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012. Page 98

⁷⁷ *Idem*.

the South Sudan Defence (SSDF), a military organisation that fought against the SPLA/M and was also led by Machar. Lam Akol accepted the provisions of the Khartoum Agreement through his own agreement with Khartoum on 20 September 1997. Known as the *Fashoda Agreement*, it brought his SPLA-United to concord with the Bashir regime; he later became Khartoum's transport minister.

According to Professor Matthew LeRiche like Machar's previous agreements, “the *Khartoum Agreement* ostensibly offered provisions for Southern ‘self-determination’, effectively manipulating a term that had become increasingly central to the Southern political discourse. It did, however, go further than the 1996 Peace Charter, stating that the South could have a referendum on independence, to be held by the end of a four-year interim period, but without providing any significant guarantees for it [...] The two options were to be unity or secession. Not surprisingly, the Southern Sudan Coordinating Council proved ineffective at any governance, lacking resources as well as control over decision-making. [...] In sum, the *Khartoum Agreement* was a great achievement for the ‘peace from within’ strategy of Bashir, ensuring that the SPLA/M could be harassed throughout the South while the key oilfields were left increasingly secured and open for exploitation.”⁷⁸

Drafting the CPA agreement (2001-2005)

The Comprehensive Peace Agreement was an agreement signed on 9 January 2005 by the Sudan People's Liberation Movement (SPLM) and the government of Sudan. The CPA put an end to the second Sudanese civil war. It also laid the foundations for the development of a democratic government in South Sudan and established the agreement for sharing oil revenues. It also set a timetable for a referendum on the independence of Southern Sudan. The peace process was encouraged by the Intergovernmental Authority on Development (IGAD), as well as IGAD-Partners, a consortium of donor countries. The next section will show the path and main

⁷⁸ *Ibidem*. Pages 99-100

events that led to the writing and sharing of the intentions of the CPA by the GoS and the SPLA/M.

The terrorist attack on the "twin towers" on September 11, 2001, was a dramatic event that shocked the entire Western world. Certainly, from a geo-political point of view the most important event since the fall of the Berlin Wall in 1989. The U.S. reaction to the terrorist attack led in the very first years to the invasion of Afghanistan and the beginning of the second Gulf War. The reaction also had an effect in the Sudanese civil war as President Bush declared war on terrorism and sponsor states of terrorism, during a joint session of Congress he stated that "*Our enemy is a radical network of terrorists and every government that supports them. [...] Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.*"⁷⁹

As seen above, the GoS was previously designated by the U.S. Department of State as a state sponsor of terrorism in August 1993 following the World Trade Center bombing. Following the September 11 attacks, the US's interest in Sudan civil war increased. According to Lt. Gen. Malual Ayom Dor "*The shift in US policy favoured the SPLM/A as the Khartoum government was under increasing pressure to find a lasting solution to the protracted civil war. US pressure is well evidenced by the Sudan Peace Act, 2002*"⁸⁰

The Sudanese peace act of 2002 came after a mediation initiated that same year by IGAD member states. IGAD delegates met in Machakos, 70 km outside Nairobi, to design a roadmap for a peaceful resolution of the North-South conflict. Delegates from the Sudanese government and the SPLM/A also attended the meeting. According to According to Lt. Gen. Malual Ayom Dor "*The neutrality expected of the delegates proved to be an exercise in futility for each of the states concerned had disputes with its neighbours. The Ugandans, for instance, were in conflict with the Government of Sudan over the Lord's Resistance Army, which was fighting the*

⁷⁹ Bush, George W. Address to the Joint Session of the 107th Congress, United States Capitol, Washington D.C. September 20, 2001

⁸⁰ ⁸⁰ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 164

*Ugandan government from its bases in Sudan. The Sudanese government and Eritrea maintained suspicions as “Eritrea started to support the Sudanese armed and non-armed oppositions, such as the National Democratic Alliance of the Sudan, whereas Sudan supported Islamist armed Eritrean oppositions.”*⁸¹

The Sudanese act of peace was approved by the congress of the United States in the session of October 21st, 2002.⁸² This act was necessary due to the inability of populations to defend themselves against attacks in areas beyond the control of the government of Sudan. It was compromised due to the disengagement of the frontline states of Ethiopia, Eritrea, and Uganda, fostering the belief among Sudan government officials that success on the battlefield can be achieved. For this reason, the U.S. asserts that multilateralization of economic and diplomatic tools must be critical to achieving lasting peace. In addition, U.S. pledged to support the establishment of civilian democratic authorities and institutions in areas of Sudan outside of government control.

In the same act, the U.S. government condemned "*human rights violations on all sides of the conflict in Sudan; the overall human rights behaviour of the Government of Sudan human rights of the Government of Sudan, both with respect to the prosecution of the war and the denial of basic human and political rights to all Sudanese; the ongoing slave trade in Sudan and the role of the Government of Sudan in facilitating and tolerating this practice*"⁸³ The US President authorized to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance. "*There are authorized to be appropriated to the President to carry out the activities described in subsection (a) of this section \$100,000,000 for each of the fiscal years 2003, 2004, and 2005.*"⁸⁴

From this act is evident the change of policy by the US towards Sudan and its willingness to use the peace process to enforce the right to self-determination of the

⁸¹ *Ibidem*, pages 165-166.

⁸² Sudan Peace Act, October 21, 2002. Public Law 107-245, 107th Congress, available at: <https://www.congress.gov/107/plaws/publ245/PLAW-107publ245.pdf>

⁸³ *Ibidem*, Page 1506

⁸⁴ *Idem*.

South Sudanese people. Compared to the early 90s, when the aftermath of the end of the Cold War imposed a more moderate position towards Sudan, after 2001 it was clear that in order to weaken Sudan, Islamic state accused by the U.S. of being a sponsor of terrorism, it was necessary to help the South Sudanese people in obtaining a democratic and secular government. With the same act the US government also outlined through which steps and principles the peace agreement was to be obtained "*Congress hereby recognizes that a single, viable internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994, and on the Machakos Protocol in July 2002*"⁸⁵

The U.S. Congress also made a harsh criticism of the United Nations stating that the U. N. should help facilitate peace and recovery in Sudan should seek to end the veto power of the government of Sudan over OLS plans for airlift relief flights and, in doing so, end the manipulation of the delivery of relief supplies for the benefit of the Government of Sudan on the battlefield.

In addition, the U.S. committed to "*The Secretary of State shall collect information on incidents that may constitute crimes against humanity, genocide, war crimes, and other violations of international humanitarian law by all parties to the conflict in Sudan, including slavery, rape, and aerial bombardment of civilian targets.*"⁸⁶

During the spring of 2003, several meetings were taking place, but they did not produce any breakthroughs and were necessary to establish the positions of the conflicting parties on the issues of security arrangements, power sharing and the sharing of natural and extractive resources. According to researcher Øystein H. Rolandsen⁸⁷ "*The IGAD secretariat and the troika grew increasingly impatient, however, intensified the diplomatic pressure to reach an agreement. The mediators*

⁸⁵ *Ibidem*, 1507.

⁸⁶ *Ibidem*, Page 1509

⁸⁷ Øystein H. Rolandsen is a Senior Researcher at the Peace Research Institute Oslo (PRIO). His research interests span a broad range of themes related to conflict and peacebuilding in the Sudans and the Horn of Africa

*decided to put aside the piecemeal approach and instead present a draft of a comprehensive solution. The Nakuru document, as it was called, foreshadowed the eventual CPA both in structure and wording. The GoS delegation rejected it. Seizing this opportunity more reasonable, the SPLM/A negotiators approved it, only later disclosing their deep misgivings.”*⁸⁸

After the collapse of the Nakuru process, the Troika and IGAD countries took a different approach to peace negotiations. The GoS leadership, after rejecting the Nakuru document and being held responsible for stalling the peace process, was keen to resume negotiations. Several unofficial negotiations took place between IGAD members and the conflicting parties. According to researcher Øystein H. Rolandsen “*A concentrated effort was set in motion to bring John Garang directly into the talks. Abel Alier, a Southern Sudanese elder statesman who had been working actively behind the many scenes of the IGAD process, intermediated. Ali Osman Taha also contacted the Norwegian Minister of Development, Hilde Fraljord Johnson, for help in convincing Garang to participate. The neighbouring countries, Kenya in particular, also put pressure on Garang. Taha's attendance at a Kenyan state funeral was used as the occasion for an unofficial meeting with Garang. This meeting was successful, and the two leaders started direct negotiations.*”⁸⁹

After these informal meetings, a first step forward was taken with an agreement on military security, which was reached in September 2003. The GoS proposed an absorption of the SPLA into the government army. In contrast, the SPLM/A insisted on keeping the SPLA separate by asking the government army to withdraw from the South. The SPLM/A's demands stemmed from the experience gained during the 1972-1983 autonomy period, which highlighted that a separate army was necessary to ensure the implementation of any agreement. Although the positions expressed by the GoS and SPLM/A appeared to be antithetical through informal meetings the GoS accepted the SPLM/A's initial position on security issues, but with

⁸⁸ Rolandsen, Øystein H. “*A Quick Fix? A Retrospective Analysis of the Sudan Comprehensive Peace Agreement.*” *Review of African Political Economy*, vol. 38, no. 130, 2011, 551–64. Page 556.

⁸⁹ *Ibidem*, page 557.

modifications. Khartoum proposed '*joint integrated units*', i.e., half the SPLA and half the GoS military, in southern Sudan and in the remaining disputed areas. The agreement stipulated that in the event of a 'defeat' in the referendum for South Sudanese independence, the SPLA would then be reintegrated into the regular Sudanese army.

After reaching an agreement on security, discussions began on the issue of wealth-resource sharing. During the last months of 2003, discussions focused first on the issues of land and natural resource ownership. The parties voluntarily decided to ignore the 'thornier' issues, in particular the rights to the waters of the Nile, and to postpone those on the ownership of land and oil resources.

According to researcher Øystein H. Rolandsen "*Ultimately, there were two main issues: managing existing and future oil-exploitation contracts and dividing the income from oil production. In retrospect, it appears that the current management regime was allowed to continue, and the future government of Southern Sudan was to receive 50% of the income derived from oil production there.*"⁹⁰

In the same year, a further agreement was reached on the new currency. The parties agreed on the creation of a new common currency and a separate subsidiary of the Bank of Sudan: The Bank of Southern Sudan.

According to Norwegian researcher "*After the signing of the wealth-sharing agreement on 7 January 2004, a final agreement again seemed imminent: the peace process had gained considerable momentum, and it would have been difficult for either party to extricate itself from the process and its commitments at this stage. [...] During the spring of 2004, much time was spent haggling over quotas in the power-sharing agreement. The result was an elaborate and fateful compromise. The SPLM/A leaders watered down their demand for a secular capital and failed their allies in the Southern Blue Nile and Nuba Mountains.*"⁹¹ The future of the disputed areas was relegated to undefined popular consultations, with unclear consequences at the time.

⁹⁰ *Ibidem*, page 558.

⁹¹ *Idem*.

The power-sharing protocol generated a democratic transition plan for the whole of Sudan. The international community stressed both parties for democratic elections during the transition period. The rationale behind the international pressure was based on the need for the Sudanese people to actively participate in the peace process and thus provide legitimacy to the CPA. The final phase of the negotiations focused on a timetable for implementation of the CPA and the details of a ceasefire agreement.

Finally, the Comprehensive Peace Agreement (CPA) was signed in Kenya by the National Congress Party (NCP) and the Sudan People's Liberation Movement/Army (SPLM/A) on January 9, 2005. The CPA is built on the collection of documents, above mentioned. It is comprised of six documents: the Machakos Protocol of July 2002, the Agreement on Security Arrangements of September 2003; the Agreement on Wealth Sharing of January 2004; the Protocol on Power Sharing of May 2004; the Protocol on the Resolution of Conflict in Southern Kordofan and Blue Nile States of May 2004; and the Protocol on the Resolution of Conflict in the Abyei Area of May 2004.

The UNMIS

The CPA was internationally recognised by the UNSC Resolution 1590 (2005) that *“Reaffirming its commitment to the sovereignty, unity, independence and territorial integrity of Sudan, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation, Welcoming the signing of the Comprehensive Peace Agreement between the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya on 9 January 2005.”*⁹²

The U.N. Security Council resolution commended *“the efforts of the intergovernmental authority on development (IGAD), particularly the government*

⁹² U.N. Security Council, *Resolution 1590 (2005) 5151st meeting*, 24 March 2005. page 1

of Kenya as chair of the Subcommittee"⁹³ in Sudan during the very long peace process. However, the UNSC affirmed its deep concern for the safety of humanitarian workers and their access to populations in need, including refugees, internally displaced persons, and other war-affected populations. It also highlighted the continued violations of the ceasefire agreement.

The UNSC underlined that the situation in Sudan continued to constitute a threat to international peace and security, thus it decided "*to establish the United Nations Mission in Sudan (UNMIS)*"⁹⁴. It requested that UNMIS had to closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur, especially about the Abuja peace process and the African Union Mission in Sudan. Furthermore, UNSC asked to the Secretary-General, through his Special Representative for Sudan, "*to coordinate all the activities of the United Nations system in Sudan, to mobilize resources and support from the international community for both immediate assistance and the long-term economic development of Sudan, and to facilitate coordination with other international actors, in particular the African Union and IGAD, of activities in support of the transitional process established by the Comprehensive Peace Agreement, and to provide good offices and political support for the efforts to resolve all ongoing conflicts in Sudan.*"⁹⁵

The UNSC stated that the mandate of UNMIS shall be the support implementation of the Comprehensive Peace Agreement. To achieve those result UNSC would use the UNMIS "*to monitor and verify the implementation of the Ceasefire Agreement and to investigate violations. To observe and monitor movement of armed groups and redeployment of forces in the areas of UNMIS deployment in accordance with the Ceasefire Agreement. To assist in the establishment of the disarmament, demobilization and reintegration programme as called for in the Comprehensive Peace Agreement, with particular attention to the special needs of women and child*

⁹³ *Ibidem*, page 2

⁹⁴ *Ibidem*, page 3.

⁹⁵ *Idem*.

*combatants, and its implementation through voluntary disarmament and weapons collection and destruction"*⁹⁶.

The most important part of those resolution was in the last page, where the UNSC allowed the UNMIS to act under Chapter VII of the Charter of the United Nations. UNSC decided that UNMIS "*is authorized to take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to protect United Nations personnel, facilities, installations, and equipment, ensure the security and freedom of movement of United Nations personnel, humanitarian workers, joint assessment mechanism and assessment and evaluation commission personnel, and, without prejudice to the responsibility of the Government of Sudan, to protect civilians under imminent threat of physical violence"*⁹⁷

The UNMIS was composed by about 10,000 military personnel⁹⁸ including some 750 military observers: as well as 715 civilian police, 1,018 international civilian staff, 2,623 national staff and 214 UN Volunteers.

Chapter conclusion

As has been shown in this chapter, unlike the first civil war, the second Sudanese civil war went through several crucial historical moments in the history of the international community and geo-politics. Take as example the foreign policy of the U.S. and the UK, it is possible to observe that if the "issue" were the communist states in Africa they had no problem to help, economically and militarily, the government of Sudan despite the GoS had a clear Islamic matrix. Once "defeated" communism in Europe then the attention of the two superpowers turned on the fight

⁹⁶ *Ibidem*, pages 3-4

⁹⁷ *Ibidem*, page 6.

⁹⁸ The contributors of military personnel: Algeria, Australia, Austria, Bangladesh, Botswana, Brazil, Cambodia, Canada, China, Colombia, Croatia, Denmark, Djibouti, Ecuador, Egypt, Fiji, Finland, Germany, Greece, Guatemala, Hungary, India, Indonesia, Italy, Japan, Mongolia, Jordan, Kenya, Malawi, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Paraguay, Peru, Poland, Romania, Russia, Rwanda, South Africa, South Korea, Spain, Sweden, Thailand, Togo, United Kingdom, United States, Ukraine, Uruguay, Vietnam, Yemen, Zambia, Zimbabwe.

against Islamic terrorism and then relations with the GoS were interrupted and the superpowers favoured the SPLA/M, recalling the principle of self-determination of peoples. Thanks to the analysis of sources made in this chapter, it is possible to observe how the role of international organizations followed the same pattern. The first two missions of the United Nations of a humanitarian nature (Operation Rainbow and Operation Lifeline Sudan), as mentioned above, both operations were unsuccessful because they were only of an aid nature without a condemnation of one (or both) of the parties in conflict. In fact, as highlighted by Professor J. Mayotte, very soon both sides used humanitarian aid as "weapons" through mutual blackmail, with the dramatic consequence that saw a population in disarray without access to the most basic human rights and a dignified life.

The research "*The Negotiation of Security Issues in Sudan's Comprehensive Peace Agreement*" written by Richard Barltrop⁹⁹ analysed the cost of war in human terms. "*The costs of the war also tend to be simplified. It is commonly claimed that 1–2 million lives were lost from 1983 to 2005, and the conflict is often described as Africa's longest civil war. These numbers must be considered through estimates made in the absence of reliable data, [...] The war resulted in direct deaths: government and SPLA troops clashed in ambushes, raids, prolonged battles and sieges, killing soldiers and civilians. Direct deaths also occurred when government aircraft bombed settlements and when the SPLM/A split and turned against itself. However, the war also caused indirect deaths when agricultural land and livestock were destroyed or looted, and when civilians fled their homes (because of actual or threatened violence, or economic need), and thereby became likelier to die from disease or malnourishment than would otherwise have been the case. The human cost of the war was compounded by recurrent drought and flood crises, inside and outside the war zones, to which Sudan has always been susceptible. [...] Vast numbers of people (especially southerners) became internally displaced or fled across Sudan's borders. [...] As of 2005 Sudan was ranked only 147th out of 177*

⁹⁹ Richard Barltrop is a consultant and researcher, specialised in political, economic, conflict and peace analysis on the Sudans, Somalia, the Sahel and Northern Africa, and the Middle East. He has worked for the United Nations Development Programme in Iraq, Jordan, Libya, Somalia, the Sudans, Yemen and elsewhere, and for the UN peacekeeping mission in South Sudan. His areas of specialisation include mediation, conflict resolution and peacebuilding, and the role of humanitarian and development aid in countries at war.

countries in the UN Development Programme's Human Development Index. At the same time, although average real GDP growth strengthened in the last years of the war (to around 6 per cent per annum between 2000 and 2005), the benefits of growth remained overwhelmingly concentrated in Khartoum and the surrounding region."¹⁰⁰

It seems clear that the "losers" of the conflict were the civilian populations, who suffered the highest cost of a war unanimously considered fratricidal. International and regional organizations were at the mercy of international events without being able to intervene promptly to avoid the numerous massacres of civilian populations.

As we will see in the next chapter, the CPA was not the end of hostilities but only a very short period of (formal) peace, as it is possible to notice from the agreement on natural resources, it is possible to show how conflicts of political nature will become more and more linked to the so called "black gold" that is oil. Moreover, a new superpower, China, will enter the South Sudanese scene with the aim of exploiting oil resources.

¹⁰⁰ Barltrop R., 2008, *The Negotiation of Security Issues in Sudan's Comprehensive Peace Agreement*, Centre for Humanitarian Dialogue, Negotiating Disarmament, Country Study, Number 2, March 2008, Geneva, Switzerland, pages 13-14

3. The role of the international community in resolving the internal conflicts in South Sudan

This chapter will show the evolution of South Sudan from the Comprehensive Peace Agreement (CPA) to the present day. The analysis of today's complex South Sudanese situation requires the study of the role of the international community and the interests at stake. To do this, the chapter will be divided into two macro sections, the first focusing on the interim period established by the CPA and the second on the internal South Sudanese civil conflict. As it will be shown China will emerge as a new superpower able to act as an international actor in resolving conflicts and protecting its economic interests. Moreover, the case of South Sudan will show the care of international organisations in pursuing the common goal of lasting peacekeeping in South Sudan.

CPA interim period

The first part of this chapter aims to analyse the period between the signing of the CPA and the proclamation of independence of South Sudan in 2011 by referendum. It is necessary to focus initially on the studying of CPA agreement not only from a literal point of view but also of the conditions that led to such a complex agreement after 50 years of almost uninterrupted civil wars. As has been shown in previous chapters the conflict in Sudan was the result of the North's policy of political, administrative, educational, economic, social, and religious subjugation of the southern Sudanese.

For Western "*liberal*" scholars removing the condition of subjugation suffered by the southern Sudanese should automatically lead to peace in Sudan. Therefore, according to these theories the depoliticization of 'peace' and 'conflict' and the change of US policy towards the Islamist states allowed the achievement of the peace agreements. These positions ignore local power relations, politics and history thus missing the goal of achieving sustainable peace and democracy. According to

Lt. Gen. Malual Ayom Dor “*in the Third World, global security concerns have superseded state sovereignty and the political process, preventing a natural evolutionary process in conflict resolution to emerge[.] Liberal peace agreements thus become the symbol of the mechanical and decontextualized implementation of liberal peace and democracy as a normative ideal, against the complexity of ‘new wars’ encountered on the ground.*”¹⁰¹

In the case of Sudan, military power and the role of the US and Troika countries were two determining factors in reaching CPA. It was evidenced by Security Council 5082nd Meeting held in Nairobi on 18-19 November 2004: “*SECURITY COUNCIL NAIROBI MEETING WELCOMES END OF YEAR - PEACE PLEDGE BY PARTIES TO SUDAN CONFLICT. Donors Reaffirm Commitments to Help Rebuild Sudan, but Challenge Parties to Stand by Promise to Reach Comprehensive Agreement by End of 2004[.] Concluding its two-day session in Nairobi, the Council unanimously adopted resolution 1574 (2004), by which it also extended the mandate of the advance mission already operating in the Sudan until 10 March 2005. [...] Emyr Jones Parry, Permanent Representative of the United Kingdom, said his government expected the parties to honour the commitment by 31 December by signing a comprehensive peace agreement.*”¹⁰²

As the UNSC statement made clear, the role of international actors appeared crucial, regional and international actors stressed Sudan to increase the dialogue for a peace agreement. Lt. Gen. Dor recognised “*the decisive role of coercion and pressure in the search for a peaceful solution to the Sudanese conflict.*”¹⁰³ Achieving the CPA the superpowers thus simply considered a waiting period the six-year interval before the independence referendum, because that period was decided in the agreement. However, despite the international agreements signed, the northern government gave no indication that it wanted to try democracy and power-sharing as a solution.

¹⁰¹ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 59

¹⁰² U.N. Security Council Press Release (SC/8249), *Security Council Nairobi Meeting Welcomes End of Year Peace Pledge by Parties to Sudan Conflict*, Nairobi, November 19th, 2004

¹⁰³ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 299

Both the SPLM/A negotiators and the Sudanese government had to learn how to construct a workable agreement to end the war, not only in terms of rational decision-making but also in the context of the socio-political environment in which they were operating.

The SPLA leader Garang's decision to accept South Sudan's secession, as shown in the previous chapter, was due to the government's insistence on Sharia law and the southerners' demand for self-determination. “[Garang] *decision to consider separation was due to the government insistence on Sharia Law and the demand from southerners for self-determination. Indeed, if John Garang de Mabior had been a separatist, it would not have taken another two years to negotiate the CPA after the Machakos Protocol had been signed because the issues discussed did not only relate to the South alone. In the CPA negotiations, the Government of Sudan had two objectives: to stop the war and to extricate itself from the accusation that it was a sponsor of terrorism, mainly in order to appease the United States whose anger over Khartoum’s hosting of Osama Bin Laden had been aggravated by the September 11th, 2001, attacks on New York and Arlington. By this time, the War on Terror had effectively picked up where the Cold War left off with the consequence of a sharp division of the non-western world into “those who are with us and those who are with terrorist”*¹⁰⁴.

On 30 July 2005, the helicopter in which the general was travelling crashed, killing the historic SPLM leader. He was apparently in the Ugandan presidential helicopter on his way back to Sudan - from a secret meeting with the Ugandan president. Both the SPLA/M and the government in Khartoum spoke of an accident due to bad weather, but doubts were immediately raised about the possibility of foul play, although this was never proven. The Garang dead created very large internal consequences for SPLA/M. Certainly the movement lost one of the main generals who organised the SPLA from the beginning of the second Sudanese civil war, Garang, as SPLA leader, was often accused of killing or imprisoning his opponents and of human rights violations by the rebel group under his long command.

¹⁰⁴ Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 311.

Under the CPA, the North and South were both able to maintain separate military forces in the form of the Sudan Armed Forces and SPLM/A respectively. The UNMIS mission was the guarantor of respect for the ceasefire. Another key objective of UNMIS was and still is to assist the parties in the implementation of the CPA. In addition to the military burden, the main focus of the CPA was on oil revenue sharing, as South Sudan and the Abyei area provide most of the oil revenue to Sudan. The CPA also sought to restructure the national political system for a transitional period of six years to better include the SPLM/A and the interests of new-born Government of South Sudan (GoSS).

Despite imperfect implementation, the CPA proved surprisingly resilient; an uneasy peace prevailed during the six-year interim period, and in January 2011 a referendum overwhelmingly approved the secession of South Sudan. According to researcher Øystein H. Rolandsen “*The CPA process is not only a significant feature of Sudan's modern history but is also the cornerstone of the first mutually-agreed secession in Africa.*”¹⁰⁵

Understanding the international nature of the agreement reached between SPLA/M and GoS is necessary to frame the process of forming the new state of South Sudan. It will therefore be necessary to understand what steps legitimized the CPA to be recognized as an international treaty that guaranteed the right of self-determination of peoples.

According to professor Scott¹⁰⁶ “*All these measures, according to a key phrase in the CPA, were aimed at [making] the unity of the Sudan an attractive option' to the people of Southern Sudan.*”¹⁰⁷ To monitor the implementation of the CPA, the agreement called for the establishment of the Assessment and Evaluation Commission (AEC), composed of the two parties to the CPA and representatives

¹⁰⁵ Rolandsen, Øystein H. “*A Quick Fix? A Retrospective Analysis of the Sudan Comprehensive Peace Agreement.*” *Review of African Political Economy*, vol. 38, no. 130, 2011, page 552

¹⁰⁶ Sheeran, Scott P. is Lecturer, School of Law, Human Rights Centre, University of Essex. Former Vice-Chair of the Sixth (Legal) Committee of the UN General Assembly.

¹⁰⁷ Sheeran, Scott P. “*International Law, Peace Agreements and Self-Determination: The Case of The Sudan.*” *The International and Comparative Law Quarterly*, vol. 60, no. 2, 2011, pp. 423-458. Page 427.

of the United States and four European nations, together with a number of observers.

Since 2005, there have been several obstacles in the implementation of the CPA, including the death of the SPLM/A's influential southern chairman, John Garang, and subsequently the SPLM's temporary withdrawal from national politics and government in protest at the implementation of the CPA, including in the Abyei region. In addition, on 14 July 2008, President Omar Al-Bashir was indicted by the International Criminal Court for crimes against humanity and war crimes, and subsequently for genocide.¹⁰⁸

The major issue for the CPA during the interim period was compliance with the agreements. Furthermore, there is a view held by some commentators, and perhaps by the Sudanese government, that the CPA was a national rather than an international agreement. Thus, this view, its legal force and validity would be solely a matter of national and constitutional law. It has been argued that the intention of the CPA was to 'constitutionalise' the areas of agreement between the parties. CPA provides that the Sudanese Constitution "shall be the supreme law of the land."¹⁰⁹ However, the *constitutionalisation* of CPA implementation has not occurred in practice. As has been observed "*throughout the years to come, the two signatories of the CPA consistently ignored the legal consequences of 'constitutionalizing' the CPA they had drafted. That this occurred is not so surprising, as framing peace agreements as constitutions can tend to have a negative effect on compliance.*"¹¹⁰

However, the CPA cannot be considered merely an internal act, because in terms of political governance the CPA recognises "the autonomy of the government of

¹⁰⁸ President of the Republic of Sudan since 16 October 1993 at time of warrants. Arrest warrants: 4 March 2009 and 12 July 2010. Charges: five counts of crimes against humanity: murder, extermination, forcible transfer, torture, and rape; two counts of war crimes: intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging; three counts of genocide: by killing, by causing serious bodily or mental harm, and by deliberately inflicting on each target group conditions of life calculated to bring about the group's physical destruction, allegedly committed at least between 2003 and 2008 in Darfur, Sudan. <https://www.icc-cpi.int/darfur/albashir>

¹⁰⁹ Machakos Protocol (n20) art. 3.1.1.

¹¹⁰ Sheeran, Scott P. "*International Law, Peace Agreements and Self-Determination: The Case of The Sudan.*" *The International and Comparative Law Quarterly*, vol. 60, no. 2, 2011, pp. 423-458. Page 437

South Sudan". The CPA also provides that "the people of Southern Sudan have the right to control and govern the affairs of their region."¹¹¹ Thus, the CPA does not establish a federal state within the larger structure, but rather as a de facto government almost parallel to Khartoum. The international legitimacy of the CPA was needed to settle the Abyei border (Arbitration regarding the delimitation of the Abyei Area between the Government of Sudan and the Sudan People's Liberation Movement/Army).

Furthermore, Professor Scott underlines that "*The Abyei arbitration was not between 'constitutional' parties, but rather the Government of Sudan and the GoSS as almost two de facto distinct international entities. In this arbitration, the GoSS acted much more like a government and legitimate political entity on parallel footing with Khartoum, than anything like a simple insurgent group or movement or a sub-component federal State of the Sudan*"¹¹²

The CPA contains numerous examples of commitments by international actors to support the implementation of the agreement. In the chapeau of the CPA, the two parties recognise the integral role of the international community in the peace process. They call on the "*regional and international community*", as well as other states that witnessed the agreement, to "*provide and affirm their unwavering support for the implementation of the CPA.*"¹¹³ Among those who have formally signed the CPA IGAD, the African Union, the European Union, the League of Arab States, the United Nations, Egypt, Italy, the Netherlands, Norway, the United Kingdom and the United States. The inclusion of such third-party signatories may provide some aspects of the form of an international treaty. The Abyei Protocol to the CPA also provides for the deployment of international observers in the Abyei region to ensure the implementation of the ceasefire agreements.

Regarding the right to self-determination of the people of South Sudan, the CPA is very clear. This is an international obligation The CPA provides that: Sets out the

¹¹¹ CPA(n7), Machakos Protocol, art 1.2

¹¹² Sheeran, Scott P. "*International Law, Peace Agreements and Self-Determination: The Case of The Sudan.*" *The International and Comparative Law Quarterly*, vol. 60, no. 2, 2011, pp. 423-458. Page 439

¹¹³ CPA(n7), Chapeau, XIII

details for the "*internationally monitored referendum*"¹¹⁴ for the people of South Sudan to vote either to adopt the system of government established by the CPA or to secede as an independent state.

Many observers noted this article because they felt "*The people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status.*" It sets out the details for the '*internationally monitored referendum*' for the people of South Sudan to either vote to adopt the system of government established under the CPA or secede as an independent State. This is significant because the right to secede, as an expression of the right to self-determination, is often separated from the recognition of the right to self-determination itself."¹¹⁵

For the GoSS were very relevant the status of the right to self-determination of the South under customary international law, and the corresponding potential *erga omnes* and *jus cogens* character of the right. This provides a legal basis beyond the CPA and inserts the commitment more deeply into the international legal order. The legal character of the right to self-determination of the Sudanese people is also relevant to the consequences of legal obligations. According to Professor Scott "*As the right to self-determination in the decolonization context may be seen as a norm jus cogens there is a duty on other States, in accordance with the Articles on State Responsibility, not to recognize a 'serious breach' and to cooperate to bring any breach to an end. A serious breach is one that 'involves a gross or systematic failure by the responsible State to fulfil the obligation'.*"¹¹⁶

As has been shown therefore, the CPA made it very difficult for the Government of Sudan not to recognise the right to self-determination of the people of South Sudan under customary international law. The CPA provided a clear basis that the right was considered to exist for the people of South Sudan and set out the parameters for its exercise in accordance with international law.

¹¹⁴CPA (n7), Machakos Protocol, art. 2.5.

¹¹⁵ Sheeran, Scott P. "*International Law, Peace Agreements and Self-Determination: The Case of The Sudan.*" *The International and Comparative Law Quarterly*, vol. 60, no. 2, 2011, pp. 423-458. Page 443

¹¹⁶ 454

The CPA players' relationship with UNMIS

The United Nations Mission in Sudan (UNMIS) was established by UN Security Council Resolution 1590 on 24 March 2005 after the signing of the CPA on 9 January 2005. When the mission began, relations between Khartoum and UNMIS were unstable. The relationship became one of open hostility, due to the out-of-control violence situation in Darfur consequently the international community's pressure on the GoS to protect civilians and limit human rights violations. The GoS was accused of supporting protests and campaigns against the UN, obstructing operations, restricting freedom of movement and harassing and arresting UNMIS staff. Tensions between UNMIS and the GoS reached their peak when the Secretary General's Special Representative (SRSG) Jan Pronk was declared *persona non grata* due to the continued public statements about atrocities in Darfur and the lack of capacity of the SAF to maintain security in the country. The Dutch diplomat writes on November 4, 2006, that “*In an official letter, signed by the Sudanese Minister of Foreign Affairs, Lam Akol (SPLM) [...] The Government is of the opinion that I have interfered unwarrantedly “in matters that do not fall within (my) mandate” and “acted in a way incompatible with the impartial and international nature of (my) duties or inconsistent with the spirit of (my) assignment”. The letter then continues as follows: “Regrettably, Mr. Jan Pronk had developed a history of a pattern of hostility against the Government of the Sudan and its armed forces. He has repeatedly abused the powers of his office (and) violated his terms of engagement”.*”¹¹⁷

It was one of the SPLA/M generals who signed the letter addressed to the SRSG. This shows that UNMIS was opposed not only by President Al-Bashir's party but also by the SPLM. According to researcher L. Hutton¹¹⁸ “*even before independence*

¹¹⁷ Letter from Government of Sudan to SRSG Jan Pronk quoted on Weblog nr 37 November 4, 2006, online at <http://www.janpronk.nl/weblog/english/november-2006.html#b287>

¹¹⁸ Since June 2019 Chief Joint Mission Analysis Center, United Nations Mission in South Sudan (UNMISS)

the SPLM also had a tense relationship with the UN Mission, although for vastly different reasons than those of Khartoum”¹¹⁹

During May 2008, fighting in Abyei between the SPLA and SAF led to most of the population fleeing the area and the city of Abyei being razed to the ground. In her report "*from UNMIS to UNMISS*" the researcher shows that the situation of instability was also present within the mission itself, quoting US embassy files published on Wikileaks, during an internal meeting between a senior UNMIS member and a US diplomat about the fighting the American stated that “*UNMIS troops should have intervened more decisively when the initial skirmishes broke out [...] UNMIS does not have a particularly aggressive approach to its mandate (nor its overall mission) in Sudan.*”¹²⁰

When the atrocities in Darfur dramatically increased the international community's focus on Sudan and the International Criminal Court (ICC) ruled against President Omar al-Bashir any attempt to translate the work of UNMIS into broader democratic transformation within Sudan evaporated. US pressure, through Special Envoy Scott Gration, led to the decoupling of South Sudan issues from those of Darfur. “*Even within these shifts in the national and international environment, UNMIS was able to support crucial parts of the CPA implementation, most notably the census, election and referendum; key tasks which required specific, mostly technical, support. [...] By the time Eritrean-born Haile Menkerios was appointed SRS in 2010, it had become clear that southern Sudan was heading towards separation.*”¹²¹ As it will be shown in this chapter, the failure of the CPA to address democratisation and governance issues “*created a bias towards setting up the southern state*”¹²²

¹¹⁹ Hutton, Lauren, “*Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War*”, Clingendael Institute, 2014, page 8.

¹²⁰ Meeting between senior UNMIS staff and US Embassy officials in Khartoum on 29 June 2008 as outlined in diplomatic cable released on Wikileaks. Online at <http://dazzlepod.com/cable/08KHARTOUM962/> in Hutton, Lauren, “*Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War*”, Clingendael Institute, 2014, page 9

¹²¹ Hutton, Lauren, “*Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War*”, Clingendael Institute, 2014, page 9.

¹²² *Ibidem*, page 11

UNMIS wound up its operations on 9 July 2011 with the completion of the interim period agreed on by the Government of Sudan and Sudan People's Liberation Movement in the Comprehensive Peace Agreement (CPA), signed on 9 January 2005. The mission ended its six years of mandated operations the same day South Sudan declared independence, following a CPA-provided referendum on 9 January 2011 that voted overwhelmingly in favour of secession. In support of the new nation, the Security Council established a successor mission to UNMIS – the UN Mission in South Sudan (UNMISS) – on 9 July for an initial period of one year, with the intention to renew for further periods as required.

According to the Press Conference by SRSR Haile Menkerios on the end of the Mission, most of the key parameters of the CPA have been implemented. The power-sharing agreement was largely respected, through a government of national unity and a parliament with SPLM representation were established in Khartoum and the Government of South Sudan was created with a South Sudan Legislative Assembly and the other southern institutions in Juba. Despite several incidents that escalated into significant violence, the parties succeeded, through the mechanisms of the ceasefire agreement, to resolve their differences and avoid a return to war. For this reason, new interim security arrangements were agreed upon for the territory of Abyei that lasted until the United Nations Mission in South Sudan (UNMISS) was held. When UNMIS ended, both sides demonstrated that henceforth, no unilateral action, no provocation could bring them back to war, and they're to war, and their remaining disputes will be resolved through dialogue. Haile Menkerios underlined that *“For the first time in the history of Sudan, its Southern citizens were given the opportunity to express their views on the future of their region.”* however *“not all provisions of the CPA have been successfully implemented. Even though very significant progress has been made in the past few weeks in the post-referendum negotiations facilitated by the African Union High-level Implementation Panel (AUHIP) [...] the border is not demarcated, and the popular consultations destined to inform further governance reforms in Southern*

Kordofan and Blue Nile and consolidate the peace process in the two States, have not been concluded.”¹²³

The role of international regional organisations during the CPA period

After studying the importance of the CPA and observing the UNMIS, in this part we will analyse the role of regional international organisations during the *ad interim* period. As shown in the previous chapter, IGAD played a key role in achieving peace, mediated between the conflicting parties and had a privileged relationship with the superpowers and the European Union. Between 2005-2011, it was responsible for overseeing compliance with the peace conditions. IGAD members met frequently during this period to tell the GoS what it had to implement to comply with the CPA.

The 12th Ordinary Summit of the Intergovernmental Authority on Development (IGAD) was held at the Sheraton Hotel Addis Ababa, Ethiopia on 14th June 2008 under the chairmanship of Prime Minister Meles Zenawi of the Federal Democratic Republic of Ethiopia. The Summit reviewed the political and security situation in the region and received briefs by His Excellency Omar Hassan El-Bashir, President of the Republic of Sudan, on the implementation of the Comprehensive Peace Agreement (CPA). The meeting “*commended the continued implementation of the CPA by the two parties, and welcomed the holding of the national census, and encouraged the parties to continue implementing all aspects of the CPA. The Summit called on the parties to always resolve their differences through negotiations in order not to unravel the CPA.*”¹²⁴

¹²³ Special Representative of the Secretary-General, Press Conference by SRSG Haile Menkerios on the end of the Mission, on 7th June 2011, available at:

https://unmis.unmissions.org/sites/default/files/opening_remarks_-_070711.pdf

¹²⁴ IGAD, Communique of the 12th Summit of Heads of State and Government of Igad, Addis Ababa, Ethiopia, 14th June 2008. Available at: <https://igad.int/communique/107-communique-of-the-12th-summit-of-heads-of-state-and-government-of-igad>

IGAD reiterated its commitment to closely monitor the implementation of the CPA and invited Ethiopia and Kenya, the countries designated to represent the region, to appoint special envoys to the Assessment Commission (AEC).

During the interim period, IGAD's greatest as mentioned earlier during the interim period, the most serious concern of even the IGAD was the outbreak of fighting in the Abyei area which resulted in loss of life and destruction of entire towns. “*The Summit further welcomed the parties’ commitment to submit the issue of Abyei to arbitration, and their resolve to abide by and implement the award of the arbitration tribunal.*”¹²⁵

Despite the willingness of the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) to resolve the dispute through negotiations, IGAD expressed grave concern about the continuing conflict in Darfur and welcomed the deployment of the United Nations African Mission in Darfur (UNAMID) hybrid force, urging the international community to provide the necessary resources to achieve full deployment of the force.

IGAD representatives therefore worked closely with UN diplomats during this period. It welcomed the recent visit of the United Nations Security Council (UNSC) to the IGAD region and urged the Security Council to continue to address the situation in the region until a peaceful resolution of all conflicts in the region is achieved. IGAD “*Welcomed the recent visit of the United Nations Security Council (UNSC) to the IGAD region and urged the Security Council to continue to be seized with the situation in the region, until peaceful resolution to all the conflicts in the region is achieved.*”¹²⁶

IGAD also organised several extraordinary meetings at that time, on 24 September 2008 the IGAD Council of Ministers meeting held at the Ethiopian diplomatic mission in New York. The meeting expressed its serious concern about the unstable security situation in Darfur and its humanitarian consequences, which have continued to cause immense suffering to the people of Darfur and stressed the need for urgent humanitarian assistance to the affected population. “*Calls upon the*

¹²⁵ *Idem.*

¹²⁶ *Idem.*

Government of Sudan and the Darfur opposition groups to continue with their engagements and implement the agreements that they have already concluded”¹²⁷.

Furthermore, IGAD urged the international community to convince the armed opposition groups in Darfur that have withdrawn from the peace process to return to the negotiating table and contribute to the peaceful resolution of the conflict in Darfur. Regarding the decision of the Ministerial Meeting of the AU Peace and Security Council, held on 21 July 2008 in Addis Ababa and 22 September 2008 in New York, in relation to the request for an arrest warrant against the President of the Republic of Sudan submitted on 14 July 2008 by the Prosecutor of the International Criminal Court (ICC). IGAD “*calls upon the United Nations Security Council to defer the process initiated by the ICC in accordance with Article 6 of the Rome Statute and taking into account the need to ensure that the ongoing peace efforts are not jeopardized*”¹²⁸ IGAD therefore called on the UN Security Council to postpone the process initiated by the ICC in accordance with Article 6 of the Rome Statute and taking into account the need to ensure that ongoing peace efforts are not undermined.

As it is possibly understood, the ICC's decision to try the President of Sudan was of great concern to IGAD, which feared a resumption of conflict and political instability in the region. “*The Executive Secretary of the Intergovernmental Authority on Development (IGAD) has received with great dismay the news of the decision of the Pre-trial Chamber of the International Criminal Court (ICC) which issued a second warrant of arrest against the elected President of Sudan, H.E. Omar Hassan Ahmed Al-Bashir on charges of genocide upon application by the ICC Prosecutor.*”¹²⁹

These concerns increased greatly in 2010 because this ICC act according to IGAD would have a negative impact on the progress in Sudan's democratic transformation

¹²⁷ IGAD, Communiqué of The Extra-Ordinary Meeting of The IGAD Council of Ministers, NYC, U.S. 24th September 2008. Available at: <https://igad.int/communique/121-communicue-of-the-extra-ordinary-meeting-of-the-igad-council-of-ministers>

¹²⁸ *Idem.*

¹²⁹ IGAD press release, E.S. Statement on Chamber of The International Criminal Court, 3rd August 2010. Available at: <https://igad.int/press-release/234-es-statement-on-chamber-of-the-international-criminal-court>

following the April 2010 general elections and the smooth implementation of the Comprehensive Peace Agreement (CPA) facilitated by IGAD in 2005. Moreover, IGAD feared that a conviction would jeopardise preparations for a referendum on self-determination in South Sudan and negotiations on the post-referendum agreement. Furthermore, on the issue of Darfur, *“The Executive Secretary of IGAD notes that neither the United Nations International Commission of enquiry, nor the former AU Mission in Sudan (AMIS) and the AU/UN Hybrid Operation in Darfur (UNAMID) upheld accusation of Genocide in Darfur.”*¹³⁰

IGAD stated that this new and unfortunate ICC decision and its action in general on Sudan were counterproductive. *“This process includes, inter-alia, the preparations for a referendum for self-determination for the Southern Sudan and negotiations on Post-Referendum Arrangement (PRA), [...] IGAD is convinced that this new and unfortunate decision by the ICC and its action in general on Sudan are counterproductive and will complicate the ongoing efforts. It will also increase the risk of instability in Sudan, the IGAD region and in the whole continent. For the above reasons, IGAD, once more, urges the United Nations Security Council to assume its responsibility and act on the AU and IGAD calls to defer the process initiated by the ICC against President Al Bashir. This is definitely in the interest of peace, justice, reconciliation and stability in Sudan and the entire Horn of Africa Region”*¹³¹

During this period IGAD also had a series of private meetings with the European Union (EU). The discussions were focused on issues of mutual interest. The parties exchanged views on a range of regional and global issues, including the global financial crisis. The EU and IGAD shared the goal of making regional cooperation and integration the building blocks of peace and sustainable development in their Member States. *“The EU welcomed IGAD's Minimum Integration Plan as a means to deepen regional cooperation and integration. It should create synergies with the overall economic integration effort within the continent as a whole and in concert*

¹³⁰ *Idem.*

¹³¹ *Idem.*

with other regional organisations”¹³². During a meeting held in Brussels on 31st March 2009 IGAD and EU Parties welcomed the progress made in the implementation of the Joint Africa-EU Strategy and its first Action Plan (2008-2010) and underlined the role of regional organisations in this process. “*The EU welcomed IGAD's involvement in the implementation of the First Action Plan of the Joint Strategy and both sides called on all parties to expedite efforts with a view to attaining tangible results as agreed within the timeframe of the first Action Plan.*”

The EU also declared its intention to intensify its engagement in the Horn of Africa to promote peace and security and the rule of law, including respect for the principles of international law governing inter-state relations, through enhanced regional cooperation, confidence-building and development for the benefit of the peoples and countries of the region. The EU welcomed further cooperation with IGAD and its seven member states in this context. The parties welcomed the progress made so far in the framework of the European Commission's initiative for the Horn of Africa, which provides the basis for concrete engagement through development cooperation.

They expressed their interest in developing a political partnership to promote peace and sustainable development in the Horn of Africa region “*based on the principles of international law, human rights and democratic governance. The parties recognized the need to work closely with relevant partners engaged in the Horn of Africa, including the African Union, the League of Arab States and Regional Economic Communities.*”¹³³

IGAD and the EU at their March 2009 meeting exchanged views on the situation in Sudan, including the decision of the International Criminal Court (ICC) to issue an arrest warrant against the President of Sudan. The parties acknowledged the statements of the AU, EU, League of Arab States and IGAD on the ICC decision and its consequences. “*The Parties agreed that it is important to respect the distinctly separate roles of humanitarian assistance and politics. The Parties*

¹³² IGAD, Communiqué: IGAD - EU Ministerial Troika Meeting, Brussels, 31st March 2009. Available at: <https://igad.int/communique/141-communique-igad-eu-ministerial-troika-meeting>

¹³³ *Idem.*

*recognised the importance of development assistance to address the underlying causes of conflict and crisis. They further agreed that the most important long-term challenge is peace and stability in Sudan achieved through the implementation of the Comprehensive Peace Agreement (CPA), as sponsored by IGAD, including the elections and the peace processes in Darfur and East Sudan. The parties agreed to engage and dialogue with Sudan on all issues, including the ICC-decision.”*¹³⁴

The role of the African Union (AU) in Sudan has historically been marginal compared to the role of the UN and IGAD. The main mission was the African Union (AU) peacekeeping force's African Union Mission in Sudan (AMIS) which operated primarily in the western Darfur region of the country to carry out peacekeeping operations related to the Darfur conflict. AMIS was the only external military force in the Darfur region of Sudan until the creation of UNAMID. It has not been able to effectively contain the violence in Darfur, so a larger and better equipped UN peacekeeping force was established by the UNSC. AMIS' mandate was extended repeatedly throughout 2006 as the situation in Darfur continued to deteriorate, until AMIS was replaced by UNAMID on December 31, 2007.

China's role player

Sudan was the fourth diplomatic mission China had established in Africa. The official anniversary of the beginning of diplomatic relations between China and Sudan was formally marked on 4 February 2009. Unfortunately, this event was overshadowed when the Pre-Trial Chamber I of the International Criminal Court, issuing its first arrest warrant for a sitting president, indicted Sudan's President Omar Hassan al-Bashir. According to Daniel Large¹³⁵ *“External coverage of these two historic events exemplified and continued the prevailing contrast between*

¹³⁴ *Idem.*

¹³⁵ Daniel Large is an Associate Professor in the School of Public Policy, and the Public Policy Track Representative in CEU's Doctoral School. His research interests include the politics of development, security and intervention; Africa's relations with China and India; African politics and international politics (particularly east and north Africa); and the politics of the global South.

Sudan as an issue in China's African and international relations and China's engagement within Sudan."¹³⁶

This section will focus on China's role during the CPA interim period. Until the end of the XX century, China had always applied the principle of non-interference and state sovereignty not interference policies in internal matters of the GoS. "*Prior to oil investment, China's relations with Sudan were, for the most part, more symbolic than politically consequential.*"¹³⁷ Trade relations increased rapidly when the US imposed unilateral sanctions on Sudan in 1997. Western oil companies, that had been exploiting oil in the region, were forced to stop with the application of White House sanctions. The GoS was compelled to reach new trade agreements with Asian *non-aligned* countries. According to Professor A. S. Natsios¹³⁸ "*China, along India and Malaysia, has been a commercial, military, and diplomatic beneficiary of western sanction on Sudan*"¹³⁹.

Sudan became a model of Chinese diplomatic engagement in Africa. Bilateral relations were framed in terms of political facilitation of an economic-command model driven by oil investment. This approach, in stark contrast to US policy, was a perfect fit for the NIF and its leaders placed value on China's policy of political *non-interference*. China quickly became an indispensable trading partner for the GoS. Sudan, however, became an example of the Chinese model economic interests on the Africa continent, as will be shown to continue to expand. Oil has always been at the heart of the relationship and dominates Sudan's trade with China. "*Oil remains at the heart of relations and dominates Sudan's trade with China. Sudan was China's sixth-largest oil supplier in 2007, accounting for 6 per cent of China's total crude imports*"¹⁴⁰

¹³⁶ Large, Daniel. "*China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War.*" *The China Quarterly*, no. 199, 2009, pp. 610-626. Pages 610-11

¹³⁷ *Ibidem*, page 613

¹³⁸ Andrew S. Natsios is distinguished professor in the study of diplomacy at Edmund A. Walsh school of Foreign Service at Georgetown University. He previously served as administrator USAID and was U.S. Special Envoy to Sudan under former President G. W. Bush.

¹³⁹ Natsios, Andrew S. "*China in Sudan: The Challenge of Non-Interference in a Failed State.*" *Georgetown Journal of International Affairs* 13, no. 2 (2012). Page 63.

¹⁴⁰ Large, Daniel. "*China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War.*" *The China Quarterly*, no. 199, 2009. Pages 616

With the signing of the CPA, China's relations with Juba followed the principle of *one Sudan, two systems* recognising and involving the Central Government of National Unity of Sudan and the Government of Southern Sudan. By conferring political legitimacy on the SPLM as a member of the central state and as former rebels who became the governing party of South Sudan, the CPA thus allowed and required Beijing to undertake a process of incremental political rapprochement with Juba. Although China's relations with the SPLM were legally enshrined in the terms of the CPA, political dialogue with South Sudan presented challenges for Beijing because of its previous political, economic and military support for the central government in Khartoum during the war.

China had never dealt with the SPLM before, its support for the NIF/NCP meant that it was widely seen as the main supporter of the SPLA/M's former enemy. Nevertheless, the combination of long-standing pragmatism, mutual need and a mutually beneficial perspective meant that both the Chinese and South Sudanese governments were open for business after 2005. About 75 per cent of Sudan's proven oil reserves are in South Sudan, so China had an interest in not interfering in the process of forming the new state. For this reason, in July 2007, Salva Kiir, who has led South Sudan's semi-autonomous government since August 2005, went to Beijing to meet Chinese President Hu Jintao. According to Natsios "*Kiir told Hu that if the South were to achieve independence in 2011, memories of past Chinese of support for the North might pose a risk to Chinese investments in southern oil reserves.*"¹⁴¹ So international pressure, the threat of war between Sudan and its neighbours, and especially the risk of losing access to oil in South Sudan has prompted China to change its approach in Sudan. China's ambassador to the UN played an active role in the Darfur peace conference in November 2006 in Addis Ababa, at which I led the US delegation as President Bush's special envoy to Sudan. Beijing has developed two main interlinked engagement processes between the ongoing conflict in western Darfur and the new political geography of formal North-South peace in Sudan. Given the strong potential for Chinese oil companies to be negatively affected by a new armed conflict in South Sudan, Beijing's

¹⁴¹ Natsios, Andrew S. "*China in Sudan: The Challenge of Non-Interference in a Failed State.*" Georgetown Journal of International Affairs 13, no. 2 (2012). Page 64.

priorities have become more concerned with investment protection imperatives rooted in political stability and the preservation of peace between North and South. At the end of the CPA interim period Beijing managed to develop the basis of political relations with Juba but according to international observers that “*extent to which the Chinese government can or is inclined to play a more engaged role in protecting the CPA, however, and in particular to mobilize its influence politics with the NCP on core issues in CPA implementation, is questionable but remains a subject of some significance in Sudan's political future.*”¹⁴²

The South Sudan Independence

The referendum on South Sudan's independence was held between 9 and 15 January 2011 in application of the right to self-determination enshrined in the CPA. The entire referendum process was observed by international envoys and diplomats, according to the report compiled by The Carter Center CIT¹⁴³. “*For the January 2011 polling period, over 100 observers were deployed to assess the polling and tabulation process, both in Sudan and OCV [out-of-country voting] locations, covering 24 of 25 states in Sudan and all eight of the OCV countries.*”¹⁴⁴ The observer stated that “*the majority of voters were able to exercise their rights to self-determination and universal suffrage freely*”¹⁴⁵. Therefore, they underlined that “*The completion of a voter registry for nearly 4 million Southern Sudanese within the compressed referendum timeline was an impressive achievement by the SSRC, SSRB, and the people of Sudan.*”¹⁴⁶

¹⁴²Large, Daniel. “*China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War.*” *The China Quarterly*, no. 199, 2009, pp. 610-626. Pages 625

¹⁴³ The Carter Center is guided by the principles of the founders, Jimmy and Rosalynn Carter. Founded, in partnership with Emory University, on a fundamental commitment to human rights and the alleviation of human suffering, the Center seeks to prevent and resolve conflict, strengthen freedom and democracy, and improve health. The report on voting in South Sudan is available at https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/FinalReport-Sudan-2011-Self-Determination-Referendum.pdf

¹⁴⁴ The Carter Center, “*Observing the 2011 Referendum on the Self-Determination of Southern Sudan*”-Final Report. Page 7.

¹⁴⁵ *Ibidem*, page 30.

¹⁴⁶ *Ibidem*, page 32.

On 27th July 2011 the African Union Welcomes South Sudan as the 54th Member State of the Union “*In accordance with the provisions of Article 29 (1) and (2) of the Constitutive Act of the African Union with respect to the process of accession to the Constitutive Act and admission as a Member State of the Union, and following a request by the Republic of South Sudan to become part of the African Union family of Member States*”¹⁴⁷

On July 14th, 2011, the U. N. General Assembly admitted the Republic of South Sudan as the 193rd member of the United Nations, welcoming the newly independent country to the community of nations. “*At this moment... in this place... the world gathers to say in one voice: Welcome, South Sudan. Welcome to the community of nations,*”¹⁴⁸ Secretary-General Ban Ki-moon said after the Assembly adopted a resolution, by acclamation, to admit Africa’s newest country. Mr. Ban, who was among the UN dignitaries who attended the independence ceremony in South Sudan’s capital, Juba, last Saturday, pledged the world body’s assistance as the country shapes its future. “*The commitment of all Member States will be essential as South Sudan moves forward*”¹⁴⁹ he stated. “*Together, let us say to the citizens of our newest Member State: You now sit with us. We stand with you.*”¹⁵⁰ Assembly President Joseph Deiss said, “*today marks a historic moment for Africa and for the world community.*”¹⁵¹ Speaking on behalf of South Sudan, Vice President Riek Machar paid tribute to all those who participated in the long struggle for South Sudan’s liberation. “*That struggle cost our people millions of lives and untold suffering. Their sacrifices will not be forgotten.*”¹⁵²

¹⁴⁷ African Union Press Release – *African Union Welcomes South Sudan as the 54th Member State of the Union*, Addis Ababa, 27 July 2011. Available at

https://au.int/sites/default/files/pressreleases/24437-pr-pr_sudan_27_07_11_2_rev.doc.pdf

¹⁴⁸ UN news, *UN welcomes South Sudan as 193rd Member State*, 14 July 2011 available at: <https://news.un.org/en/story/2011/07/381552>

¹⁴⁹ *Idem.*

¹⁵⁰ *Idem.*

¹⁵¹ *Idem.*

¹⁵² *Idem.*

The role of organisations and the international community in the current South Sudanese crisis

This section will focus on the role of the international community in the resolution of the civil conflict that exploded a few years after the January 2011 referendum for independence. During the CPA period GoS and GoSS failed to implement the CPA agreements in several border areas that remained currently disputed border regions in 2011.

The country is bordered by Ethiopia (to the east), Uganda and Kenya (to the southeast), the Democratic Republic of the Congo (to the southwest), and the Central African Republic to the west. As was shown in the first chapter, the populations of South Sudan are historically very diverse, diversity and plurality are defining characteristic of South Sudan, since from the point of view of international law (note concept nation-state) South Sudan as a regional entity was born only in the late nineteenth century with the Anglo-Egyptian condominium.

According to the World Bank *Project Information Document (Pid)* 83% of the population are rural farmers. More than half of the population (51%) lives below the poverty line. Most (78%) of the population depends on agriculture and livestock as a source of livelihood¹⁵³. South Sudan made up of about 60 different nationalities. According to Professor Christopher Zambakari¹⁵⁴ “it is one of the most ethnically diverse countries in East Africa. If the various clans and sub-clans are considered, the number of nationalities rises to 90.14”.¹⁵⁵

Since its establishment, South Sudan has faced the problem of violence and the proliferation of armed groups. Political violence (especially intercommunal

¹⁵³ the World Bank *Project Information Document (Pid)* available at: <https://documents1.worldbank.org/curated/en/239531468095064984/pdf/PID-Print-P144139-06-04-2013-1370387572736.pdf>

¹⁵⁴ Dr. Christopher Zambakari is a Professor in the College of Global Studies at Cambridge Graduate University International (CGUI) and Faculty in the Executive Global MBA Program at Minhaj University Lahore (MUL) in Pakistan. He is member of the Board of Directors of The Sudan Studies Association (SSA) and Chairman of the Board of Directors for The Nile Institute for Peace and Development (NIPD).

¹⁵⁵Dr. Christopher Zambakari, *Nation and State Building in South Sudan: Violence, Development, and Democracy*, Journal: Business, Peace and Sustainable Development: 2014, page 4.

violence and the proliferation of armed groups) immediately presented itself as a very difficult challenge to deal with and this posed existential threats to the new Republic. *“The post CPA period has seen a proliferation of arms and violence throughout South Sudan. Violence and instability continue in various regions; I in the Border States, Eastern, and Western Sudan”*¹⁵⁶

Dr. Christopher Zambakari in his paper shows a study on armed conflict in the post-independence period, the study employs a quantitative method to examine data collected by the United Nations Office for the Coordination of Humanitarian Affairs on violence in South Sudan. *“The unit of analysis in this study is the incident. The types of incidents range from cattle raids, inter and intra ethnic clashes, armed attacks, and natural disasters. An incident has a range of possible outcomes including death, injury, kidnapping, or internal displacement of people. [...] “Inter-ethnic” refers to incidents between at least two ethnic groups. [...] Slightly more than half (51.40%) of the incidents were interethnic, 40.21% related to livestock, 26.46% due to other armed groups, 21.68% due to clashes with security forces, 18.41% related to civilians, 17.83% due to rebel activities, 15.85 due to Sudan People's Liberation Army (SPLA) activities, 11.31 intra-ethnic, 8.62% unknown forces, 5.94% due to natural incidents, 5.71% due to Sudan Armed Forces (SAF) activities, and all other actors accounted for the remaining 12.35%.”*¹⁵⁷

Land issues (access to land, water, and grazing rights) and inter-ethnic conflicts fuel violence in South Sudan. The issue of citizenship and the issue of land are clearly linked. The definition of citizenship is based on ethnicity or residency if ethnic groups fight over disputes related to ownership of certain land. South Sudan's land tenure system and the challenges of reconciling the various land claims caused constant political instability from the inception of the new state.

The civil war began in December 2013 when rival units of the SPLA began fierce fighting against government military units in Juba, the capital of South Sudan. Following the riots, President Salva Kiir announced on national television that former Vice President Riek Machar had attempted a coup. According to Al-

¹⁵⁶ *Idem.*

¹⁵⁷ *Ibidem*, page 7.

Jazeera¹⁵⁸ Machar fled Juba but denied involvement in a coup or any hand in the initial fighting. As was shown in the first chapter Machar was the main commander who ordered the massacre of Bor during the SPLA fierce internal strife of the early 1990s. After South Sudan's independence, Machar served as the country's vice president. In February 2013, Machar publicly declared his intentions to challenge President Kiir when he and the entire cabinet were removed from office. Machar said that Kiir's move was a step toward dictatorship.¹⁵⁹

After being ousted from the government Machar proclaimed himself the leader of an armed opposition movement that became the "SPLM/A in Opposition" (SPLM/A-iO). This movement quickly took control of significant parts of Jonglei and Upper Nile states and fighting spread to other areas. According to Africa Report N°217 | April 10, 2014, written by International Crisis Group: *“The government and SPLM in Opposition have fundamentally different views of what happened on 15 December, leading to deeply divergent understandings of the core problem and how to resolve it. Most government officials maintain Machar was planning to take power by force and believe the failure of the wider international community to condemn a coup attempt has encouraged him.4 The SPLM in Opposition maintains there was no coup attempt and that Kiir and a small group of Dinka hardliners from Warrap and Northern Bahr el Ghazal used the fighting as an excuse to arrest and purge rivals and allowed Dinka units of the Presidential Guard, SPLA, National Security and police to carry out atrocities against Nuer in Juba.”*¹⁶⁰ From early 2014, Kiir and Machar both sent delegations to Addis Ababa to begin peace informal meeting.

According to the International Crisis Group, *“Government officials suggest as much as 70 per cent of the SPLA may have defected – entire units decamped to the*

¹⁵⁸Al Jazeera, “South Sudan’s Machar speaks to Al Jazeera”, 19 December 2013. Available at <https://www.aljazeera.com/features/2013/12/19/south-sudans-machar-speaks-to-al-jazeera>

¹⁵⁹Al Jazeera, South Sudan gripped by power struggle, 28 Jul 2013. available at: <https://www.aljazeera.com/news/2013/7/28/south-sudan-gripped-by-power-struggle>

¹⁶⁰ International Crisis Group, “South Sudan: A Civil War by Any Other Name” Africa Report N°217, April 10, 2014. Page 3

*opposition, while others deserted and returned to their home areas.”*¹⁶¹ Local communities, often well-armed and not involved in elite politics, engage in the conflict on their own terms. In many areas, positions reflect local grievances, such as longstanding land disputes, rather than the national politics that has been highlighted above. *“Although the SPLM/A in Opposition, various armed communities and the political detainees want to change the status quo, their interests diverge in key respects; forging a coalition will require a careful balancing act between players in Juba, Addis Ababa, Nairobi, the field and local communities.”*¹⁶²

The armed conflict has rapidly become brutal, with ethnic violence against and among civilians. rape, deliberate destruction, and theft of property have left many women in a particularly precarious situation, especially for families whose members were involved in the civil war. The systematic targeting of Nuer civilians in Juba in the days following the outbreak of the civil conflict was perhaps the most critical factor in the mobilization of the Nuer to join Machar's movement.

Armed youth from a variety of ethnic groups have mobilized. Many do not report directly to any political leader. While much of the conflict was *political*, there are also ethnic factors underlying the escalation of violence, and the two are often difficult to distinguish. *“Dinka and Nuer ethnic identities were deliberately politicised during the second civil war, and militarised structures within communities, such as the gelweng, titweng and White Army/bunam remain powerful reference points for many young Dinka and Nuer.”*¹⁶³

Even the SPLM/A-IO was not internally unified. Most of those arrested and prosecuted during the riots that erupted in late 2013 were *“Garang Boys, long-serving, educated party leaders committed to John Garang’s vision of a multi-ethnic SPLM. Quite a few of them have their own ambitions, and their shared opposition to Kiir does not mean there is universal support for Machar or political consensus within the group.”*¹⁶⁴ A new group within the conflict called the SPLA7

¹⁶¹ *Ibidem*, page 8.

¹⁶² *Idem*.

¹⁶³ *Ibidem*, page 11.

¹⁶⁴ *Ibidem*, page 13

was thus created. The humanitarian situation then steadily worsened throughout the two-year period 2014-2016. The civil war immediately produced a political, economic and humanitarian catastrophe due to weak foundation on which the new *nation-state* of South Sudan was born. Humanitarian actors were unprepared to respond to the scale of needs created by the civil war. As stated by the Secretary General of the United Nations Ban Ki-moon in the press conference of the birth of the new state, the United Nations peacekeeping mission for South Sudan (UNMISS) was the continuation of UNMIS ensuring a constant support to the process of political, economic and social development. Now will be analysed the roles that the international organizations and the international community had during the South Sudanese civil war and in the peace process.

IGAD as mediator of the conflict

After years of IGAD-facilitated negotiations leading to the CPA, South Sudan became a key link in the regional economy, absorbing both capital and workers from neighbouring countries. The outbreak of civil war from an economic perspective brought huge losses mainly due to the reduction of oil production. In addition, the humanitarian crisis caused an increase in refugee flows, especially South Sudanese from areas affected by armed conflict and refugees from Darfur. As has been shown in the previous section, until the end the CPA interim period, relations between the GoS and the GoSS had been very tense due to disputes over border territories, anyway due to the importance of oil exploitation in South Sudan the GoS had accepted a path of Sudan-South Sudan rapprochement. Thus, Khartoum was very interested about the stability of South Sudan, President Bashir publicly supported President Kiir: *“Presidents Omer Al-Bashir and Salva Kiir took part in a meeting organised by the Ethiopian prime minister on the side-lines of the African union summit in Addis Ababa attended by presidents of South Africa, Cote d’Ivoire, Nigeria on Sunday 27 January four months after the signing of the Cooperation Agreement. [...] Before their African counterparts, the two leaders vowed to seek seriously to implement cooperation agreement and to observe the*

outcome of the AU Peace and Security Council (AUPSC) meeting held on Friday 25 January at the level of heads of states and governments. [...] On Sunday also President Bashir discussed the ongoing process between Sudan and South Sudan with the chief mediator Thabo Mbeki who works since 2009 to finalise peaceful settlement of the differences between Khartoum and Juba."¹⁶⁵

The GoSS received direct military aid from Uganda both to defend and reconquer territory; although *"forces associated with Ugandan supported Sudanese armed groups (notably JEM) have also intervened alongside other regional non-state armed groups"*¹⁶⁶. Additionally, Rwanda is a major troop contributor to UNMISS, while Ethiopia is the sole contributor to the UN Interim Security Force for Abyei (UNISFA). All IGAD member states, apart from Somalia, have significant financial interests and flat economic agreements for massive regional infrastructure projects including railways, roads, and oil export pipelines.

Due to the need for stability in the region, regional leaders were quick to launch IGAD-led mediation efforts, focusing on cessation of hostilities and release of political detainees. Although during the peace process *"Uganda's ongoing combat role has complicated IGAD's task and been a stalling point for the SPLM in Opposition, which demands that Kampala withdraw the troops prior to further dialogue."*¹⁶⁷

Despite some differing views on how best to resolve the civil war, IGAD has announced its intention to deploy a Protection and Deterrence Force (PDF) as part of the Ceasefire Monitoring and Verification Mechanism (MVM): *"Authorizes the prompt deployment of a Protection and Deterrent Force (PDF) from the region with a clear mandate and operational guidelines as part of the IGAD Monitoring and Verification Mechanism in South [...] further reiterates the call on the parties to ensure the progressive withdrawal of all armed groups and all allied forces invited by either side from the theatre of operations as per the COH Agreement and*

¹⁶⁵ Sudan Tribune, *Bashir and Kiir commit themselves to implement signed agreements*, 28 January 2013. Available at: <https://reliefweb.int/report/sudan/bashir-and-kiir-commit-themselves-implement-signed-agreements>

¹⁶⁶ International Crisis Group, "South Sudan: A Civil War by Any Other Name" Africa Report N°217, April 10, 2014. Page 18

¹⁶⁷ Ibidem, page 20

inline with the Communiqué of the 24th Extraordinary Summit of IGAD Assembly of the Heads of State and Government, held on the 31st January 2014”¹⁶⁸

Important points mandated included cessation of hostilities; protecting MVM members; securing oil fields; and ensuring that IGAD member states do not push one target in Addis while supporting others on the battlefield. Some non-member IGAD African countries including Rwanda, Burundi, and Egypt had offered to contribute troops. This demonstrates the growing regional dimension of the conflict and the need for a return to peace and political stability

According to International Crisis Group report “*Calls for the regional intervention force indicate frustration with the slow progress in Addis Ababa and how little faith national, regional and other international actors have in UNMISS to fill its role.*”¹⁶⁹

IGAD's role in the peace process has been severely constrained, due to enmities and balance of power issues, South Sudan factions seeking to ally some members of the Horn of Africa regional organization. For this reason, IGAD intervened several times to reaffirm the organization's neutrality and to promote stability within South Sudan. The IGAD countries, as has been shown above, again did not have a unified approach to the directives of the regional organization.

Uganda has always had the deepest and most privileged ties to the SPLM/A, as evidenced by decades of joint military deployments. When conflict erupted in December 2013, Uganda's People's Défense Force (UPDF) was deployed alongside the SPLA, in 2014 the Ugandan ambassador to South Sudan stated that “*if it weren't for the UPDF deployment, there wouldn't be talks in Addis; there would be urban warfare for control of Juba*”¹⁷⁰. However, their actions have been criticized primarily for the alleged use of cluster bombs. “*Uganda's military intervention – it believes tacitly approved by the U.S. – diverged substantially from subsequent AU,*

¹⁶⁸ IGAD, *Communiqué Of The 25th Extra-Ordinary Session Of The IGAD Assembly Of Heads Of State And Government On The Situation In South Sudan*, Addis Ababa, 13th March 2014 available at: <https://igad.int/communique/781-communicue-of-the-25th-extra-ordinary-session-of-the-igad-assembly-of-heads-of-state-and-government-on-the-situation-in-south-sudan>

¹⁶⁹ International Crisis Group, “South Sudan: A Civil War by Any Other Name” Africa Report N°217, April 10, 2014. Page 22

¹⁷⁰ *Ibidem*, page 23.

*UN and IGAD calls for a ceasefire and put the latter's neutrality as mediator in question.”*¹⁷¹

The SPLM/A- IO's offensive, which began with the seizure of Malakal in late February 2014, is now targeting oil fields in the Upper Nile and Unity region near the border with Sudan. Realizing what is at stake for Sudan, the SPLM/A in the opposition has begun negotiating with Khartoum for oil revenue sharing if the oil fields are secured. According to International Crisis Group “*Many are wary that Sudan may publicly support the government, while aiding the SPLA in Opposition.*”¹⁷²

On the South Sudan-Sudan border, nearly 200,000 Sudanese refugees were hosted in South Sudanese territories at those time, particularly members of the JEM and SPLM-N, who are united under the banner of the Sudan Revolution (SRF). In addition, another indication of the increasingly regional nature of the conflict is the fact that the JEM has already fought alongside the government of South Sudan.

Ethiopia and Kenya have a long history of supporting the SPLM/A, there Ethiopia militarily, Kenya diplomatically, as is shown in the previous section, Kenya also played a key role in the CPA negotiations. After years of hosting tens of thousands of refugees, independence brought a chapter of peaceful and economically beneficial relations between South Sudan Ethiopia and Kenya.

Ethiopia has been a key mediator in improving relations between South Sudan and Sudan and has taken the lead role in UNISFA, as well as supporting the nascent South Sudan-Sudan border monitoring mission. Ethiopia had an additional incentive for a peaceful resolution of the conflict, given the ties between the Nuer and Anyuak populations that oppose the SPLA and Eritrea, its arch-rival. “*There is allegations Eritrea may be siding with Machar in an attempt to undermine Ethiopia's peace-making*”¹⁷³.

After more than eighteen months of negotiations, following the large-scale military offensive in Unity State since April 27, 2015, and the denial of freedom of

¹⁷¹ *Idem.*

¹⁷² *Ibidem*, page 24.

¹⁷³ *Idem.*

movement to MVT by government forces IGAD decided to change its approach by asking for help from the international community.

*“The continued war rhetoric by the warring Parties also demonstrates the fact that they are still pursuing their objectives thorough military means. Once more, The Mediators would like to underline that there is no military solution to the ongoing crisis in South Sudan. They urge the warring Parties to immediately stop the violence and work towards achieving a negotiated political settlement under the new IGAD-Plus approach.”*¹⁷⁴

IGAD announced a new mediation called "IGAD-PLUS" - which includes the African Union (AU), UN, China, United States, United Kingdom, European Union (EU), Norway, and the IGAD Partners Forum (IPF). The initiative is designed to present a united international front behind IGAD to the warring parties. The IGAD-PLUS approach to mediation was necessitated by two different factors: first, because the parties were unwilling to reach an agreement without pressure, and second, IGAD would need to call on the weight of the broader international community to exert the necessary pressure in a coordinated manner.

In August 2015, the government represented by Salva Kiir, and the SPLM-IO led by Riek Machar signed a peace agreement, Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCRSS). The agreement provided for the establishment of the Transitional Government of National Unity (TGoNU). It took many months of mediation to reach the agreement. According to researcher Redie Bereketeab ¹⁷⁵ *“Kiir was adamantly opposed to the peace agreement, in fact, he walked out from the Addis meeting where the two leaders were expected to put their signature and returned to Juba. Finally, pressure from Museveni who faced*

¹⁷⁴ IGAD press release, *IGAD Mediators profoundly deplore the escalation of fighting in South Sudan and urge the warring Parties to immediately cease all hostilities*, 15 May 2015, Addis Ababa, Ethiopia. Available at: <https://igad.int/press-release/1134-igad-mediators-profoundly-deplore-the-escalation-of-fighting-in-south-sudan-and-urge-the-warring-parties-to-immediately-cease-all-hostilities>

¹⁷⁵ Redie Bereketeab is a senior researcher and associate professor with a special interest on political and development sociology, state, nation, nationalism, culture, identity, conflict, governance, democratisation and development.

*strong US pressure convinced him to sign it. One of the pillars of the agreement entails security arrangement. Juba was to be demilitarised.”*¹⁷⁶

The agreement stipulated that the SPLM- IO and the government would have equal security forces (police and army) to observe peace and security in Juba. A transitional government of national unity was formed in April 2016 where Kiir retained the position of president and Machar resumed the vice presidency. As a result, Machar returned to Juba with SPLM-IO members who will form the new cabinet. Compliance with the agreement lasted very little because July 2016 fighting broke out between the two different armies. Many observers are convinced that President Kiir never intended to implement the ARCRSS. “*Kiir has taken every possible measure that undermined the peace agreement. [...]. he July incident provided him an excellent opportunity to get rid of his mortal enemy.*”¹⁷⁷ Machar was pursued by the SPLA for a whole month using helicopter gunships until he managed to escape to the Democratic Republic of Congo with the help of the United Nations. IGAD-Plus's response to Kiir's actions has been inconsistent. Initially, they denounced, but gradually came to terms with the measure.

The people of South Sudan were victimized by their own leaders, but they also had to suffer the willingness of IGAD mediators to pursue the national interest. The power struggle between two top SPLM leaders got out of hand and quickly took on an ethnic dimension, engaging in a fratricidal war between the two main ethnic groups. “*It is also clear that IGAD, AU and the international community have betrayed them. It was a mistake that the AU and UN left the mediation to IGAD only.*”¹⁷⁸ Researcher Bereketeab suggested that “*A clear and steadfast mediation, unswerving stand, principled, targeted and serious sanctions would have put an end to the suffering of the people of South Sudan. [...] The mediators had an important tool to enforce the signed peace: barring South Sudan from IGAD, imposing sanction, and sanctioning Uganda.*”¹⁷⁹

¹⁷⁶Redie Bereketeab, “The Collapse of IGAD Peace Mediation in the Current South Sudan Civil War: When National Interest Dictates Peace Mediation”, *Journal of African Foreign Affairs*, Vol. 4, No. 1/2 (June/December 2017) pp. 67-84. Page 74

¹⁷⁷ *Ibidem*, page 75

¹⁷⁸ *Ibidem*, page 81

¹⁷⁹ *Idem*.

The limits of African Union in conflict resolution

The role of the African Union (AU) will now be shown. After the outbreak of the war, through the communication following the “*411th meeting of the Peace and Security Council at the level of Heads of State and Government on the situation in South Sudan*”¹⁸⁰ the AU Peace and Security Council (PSC) set up a commission of enquiry into the alleged atrocities. The communication stated that [AU] “*Expresses, once again, its grave concern about the crisis in South Sudan and Africa’s dismay and disappointment that the continent’s newest nation should descend so quickly into civil strife, with the potential of rapidly deteriorating into ethnic clashes and a full-fledged civil war, with far-reaching consequences for regional peace, security and stability. [...] Requests the Chairperson of the Commission, in consultation with the Chairperson of the African Commission on Human and Peoples’ Rights (ACHPR) and other relevant AU structures, to urgently establish a Commission to investigate the human rights violations and other abuses committed during the armed conflict in South Sudan and make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all South Sudanese communities. [...] Council calls upon all AU Member States having troops and police personnel in UN peacekeeping operations to support the increase in UNMISS strength by making available military and police personnel, as well as assets, through inter-Mission cooperation and calls upon those African countries concerned to facilitate the movements of UN military and police personnel to South Sudan. Notes with appreciation the efforts being made by all other international stakeholders, including the United States, China, Norway and the EU.*”¹⁸¹

It is possible to observe that there was a clear overlap of authority between AU and IGAD that led to a phase of immobility of the peace processes due to the willingness

¹⁸⁰ The Peace and Security Council of the African Union (AU PSC), *411th meeting of the Peace and Security Council at the level of Heads of State and Government on the situation in South Sudan*, December 30th, 2013. Available at: <https://www.peaceau.org/uploads/psc-com-411-south-sudan-30-12-2013.pdf>

¹⁸¹ *Idem.*

of IGAD-states to pursue national interests. The AU did not impose a joint mediation process with IGAD. Because of the sub-region's aversion to punitive measures and effort to protect their South Sudanese partners. In fact, IGAD made sure to block any attempt to impose punitive measures, the AU was considering putting sanctioning measures against parties who did not comply with ARCRSS. the AU Commission was exhorted to urgently develop possible measures about all those who continue to obstruct efforts towards the restoration of peace and security in South Sudan:

*“Strongly urges all the parties to extend full cooperation to IGAD to ensure full success of the High-Level Revitalization Forum which should develop a clear political strategy for the peace process in South Sudan. In this regard, Council holds the view that this process represents a unique window of opportunity, but equally a last chance for the Parties, to really achieve sustainable peace and stability in South Sudan; [...] Calls on the AU High Representative, the IGAD Special Envoy and the UN Special Envoy to convene regular tripartite meetings and subsequently brief the policy organs of the AU, IGAD and UN on the evolution of the situation and offer practical recommendations on what the three institutions should undertake together to give stronger political impetus to the peace process;”*¹⁸²

A clear case of IGAD's effort to block punitive measures also occurred in July 2018. Before the AU Ad Hoc Committee on South Sudan, IGAD held a meeting and urged the AU not to consider any punitive measures seeing as how IGAD was already developing other strategies.

“The Council endorsed the Khartoum Declaration of 27th June 2018, the agreement on a new Transitional Period of thirty-six months to be the resolution by parties to conclude on all the outstanding governance and security issues in the IGAD bridging proposal, the opening of humanitarian corridors, release of prisoners of war and political detainees, as well as the request to African Union

¹⁸² ¹⁸² The Peace and Security Council of the African Union (AU PSC), “*Communiqué of the 720th meeting of the PSC, at the ministerial level, on the situation in South Sudan*”, September 20th, 2017.

*and IGAD members states to deploy the necessary forces to supervise the permanent ceasefire.[...] The Council also observed that, given the latest developments in the peace process and the need to implement the permanent ceasefire and achieve an inclusive peace agreement, it is not helpful to pursue punitive measures at this stage. The Council appealed to the African Union Ad-Hoc Committee for South Sudan, and all international partners and friends of South Sudan, to continue supporting the region's effort to bring peace and implementation of its outcome.”*¹⁸³

According to Dr. Ndubuisi Christian Ani¹⁸⁴ *“the timing of the IGAD communique also shows the broader trend of how sub-regional organization tend to avoid interference and input from the larger AU configuration.”*¹⁸⁵

The task of a PSC made up of all African members is to provide a continental response to crisis situations, therefore, to supply adequate *checks and balances* to conflicting sub-regional viewpoints. the case of South Sudan shows all the weaknesses of the AU structure. Regional interests prevailed over the overall vision, and this caused an inevitable prolongation of the conflict.

The lack of resources and authority shows all the fragilities of the African union. The case of South Sudan *“shows that sub-regional organisations and coalitions are increasingly relying on their solutions to security threats in their regions while limiting a broader continental input. While their familiarity and influence on the ground is vital for peace, it could also stand in the way of peace when the interest of neighbouring states obstruct peace process.”*¹⁸⁶

The continued status quo in the second decade of the 21st century raises questions about the added value of the AU and its primacy on peace and security as envisioned by the legal frameworks and mechanisms of the AU.

¹⁸³ IGAD-Press Release, *For Immediate Release*, Nouakchott - Mauritania, June 30th, 2018.

¹⁸⁴ Institute for Security Studies (ISS)

¹⁸⁵ Ndubuisi Christian Ani, *Clarifying the roles of the African Union and sub-regional organizations in peace and security*, Journal of African Union Studies, Vol. 7, No. 3 (December 2018). Page 58

¹⁸⁶ Ndubuisi Christian Ani, *Clarifying the roles of the African Union and sub-regional organizations in peace and security*, Journal of African Union Studies, Vol. 7, No. 3 (December 2018). Page 60

The AU Peace and Security Architecture (APSA) brings together all the elements dedicated to conflict prevention, management and resolution, as well as post-conflict management. The elements that go to make up the APSA are largely established by the Protocol establishing the Peace and Security Council, adopted in 2002 during the first session of the AU Assembly in Durban and ratified by 49 States in February 2015. The core body of the APSA is the PSC¹⁸⁷, the PSC “*is guided by the principles of peaceful resolution of conflicts and respect for the rule of law, human rights and fundamental freedoms.*”¹⁸⁸ However, the case of the crisis in South Sudan has highlighted all the weaknesses of the PSC, Dr. Ndubuisi suggests that “*To ensure a pan-African response to security threats, there is need to strengthen the AU’s role to not only set norms and provide checks and balances to sub-regional interventions but also enhancing its capacity to take leading roles in peace processes when RECs/RMs are unable and/or unwilling to address security threats.*”¹⁸⁹

The Responsibility to Protect (R2P) has become a part of African conflict resolution mechanisms since it was enshrined in the founding documents of the AU. However, researcher Rudincova¹⁹⁰ shows how in the case of South Sudan “*it is still selectively applied and its possible application is heavily influenced by the political ambitions of the international community and other geopolitical factors, including the importance of the states involved.*”¹⁹¹ The Commission of Inquiry into Human Rights Violations in South Sudan, in its report, does not speak of genocide, but of massive human rights violations that would suggest that South Sudan is a candidate for the responsibility to protect. The international community was horrified by the

¹⁸⁷ PSC is assisted in its functions by the Commission, the Group of Wise Men, the Continental Early Warning System, and the African Standby Force.

¹⁸⁸ Martina Lucia Lanza, “*Dossier: Il Sistema dell’Unione Africana di protezione e promozione dei diritti umani*”, UNIPD-Centro Diritti Umani, available at: <https://unipd-centrodirittiumani.it/it/schede/LArchitettura-di-pace-e-sicurezza-dellUA/354>

¹⁸⁹ Ndubuisi Christian Ani, *Clarifying the roles of the African Union and sub-regional organizations in peace and security*, Journal of African Union Studies, Vol. 7, No. 3 (December 2018). Page 60

¹⁹⁰ Katerina Rudincova, Department of Social Geography and Regional Development, University of Ostrava (CZ)

¹⁹¹ Rudincová, Kateřina. *African Solution to African Problems*, Politeja, vol. 56, 2018, pp. 169-192. Page 185.

mass atrocities committed by the warring parties and documented by the Commission of Inquiry; however, it did not call for massive humanitarian action.

In the case of South Sudan, R2P was not applied in the form of humanitarian intervention. The AU strongly supported the IGAD-initiated and IGAD-led peace process and appreciated the role of UNMISS in protecting South Sudan's civilians and preventing mass atrocities. Despite this, the AU has proposed the creation of a regional force in accordance with its commitment to the African solution to African problems, which, however, has not been deployed. *“Currently, the AU is, to a large extent, unable to respond to the continent's crises, as decisions are paralyzed by the power ambitions of members and the lack of political will and financial sources. The AU is still dependent on finances from abroad, mainly from the EU and its fund.”*¹⁹²

In addition, the implementation of R2P has been influenced by the political will of various actors, including neighbouring states and South Sudanese elites. In the case of South Sudan, there are a few geopolitical factors that have made it difficult for the international community to prevent mass atrocities and human rights violations in the country during the conflict. As has been widely shown, the main factors are oil, South Sudan's low importance, fragile regional alliances, and various proxy conflicts.

UNMISS from state building to protecting people

When South Sudan became formally independent and the UNMIS mission became UNMISS, as has been shown above, UNMISS was tasked with assisting the SPLM in state capacity implementation, with a focus on building the capacity of personnel and physical infrastructure and extending the legitimacy of the state. According to Dr. Hurton *“Part of the structural causes of the current conflict lie within the inherent contradiction of state building and the imposition of order through the establishment of strong state structures and institutions within a governance system*

¹⁹² *Ibidem*, page 186.

*suffering from major internal accountability and legitimacy deficits. These processes almost naturally produce violence and even more so when combined with the particularities of ethnicity and pastoral communities, the lack of institutionalized and non-militarised political and security practices and the enduring dominance of informal political economies”*¹⁹³

Much of the rhetoric around state-building in South Sudan has emphasized the need to bring government to the people, supporting the needs of local autonomy while enabling effective service delivery through decentralization. For UNMISS, this was operationalized through county support bases (CSBs).¹⁹⁴

Initial plans were to establish 35 CSBs across the country with the goal of strengthening local government presence and capacity at the county level through co-location of UNMISS staff with county authorities and to facilitate greater presence of UN agencies and development partners. Due to South Sudan's infrastructural deficiencies and natural difficulties the establishment of CSBs was slower than expected. *“Although the idea of decentralised operational structures is not new, UNMISS was the first UN mission to try such an ambitious logistical undertaking in amongst the oft mentioned difficulties of navigating the UN procurement systems and in one of the most inaccessible countries in the world.”*¹⁹⁵

Insufficient resources forced UNMISS to therefore need UN agencies or NGOs to carry out sustained programming at CSB sites.

In December 2013, UNMISS was not prepared to approach an internal conflict either politically or operationally. Eleven days after the fighting began, the Special Representative of the United Nations Secretary-General, Hilde Johnson, acknowledged, *“We did not expect this.”*¹⁹⁶ In November 2013, the mission was

¹⁹³ Hutton, Lauren, *“Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War”*, Clingendael Institute, 2014, Page 14

¹⁹⁴ The CSBs were in fact a continuation of a plan to have Referendum Support Bases located around the country to enable support and monitoring for the 2011 referendum. However, the bases were not completed in time for the referendum and the idea found resurgence as the CSB project. Note 36 in Hutton, Lauren, *“Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War”*, Clingendael Institute, 2014, Page 15

¹⁹⁵ *Idem.*

¹⁹⁶ International Crisis Group, *“South Sudan: A Civil War by Any Other Name”* Africa Report N°217, April 10, 2014. Page 28.

“cautiously optimistic”¹⁹⁷ despite a growing number of signs about instability in the country. UNMISS has always adopted as its method the impartiality necessary to protect civilians under threat. “Following the outbreak of violence, the mission’s continued policy of state support compromised perceptions of its neutrality”¹⁹⁸

This position has not stopped the government from criticizing the mission. In January, following public incidents with its officials, “We did not know that when the UNMISS was brought to South Sudan, they were brought as a parallel government with the government in South Sudan”¹⁹⁹ Mr Kiir said to BBC.

After December 15th, while civilians in Juba were targeted directly based on ethnicity, SPLA denied permission to UNMISS to patrol the perimeters of its facilities and UN personnel were repeatedly obstructed at government checkpoints. “As Secretary-General Ban Ki-moon called for a ceasefire, UNMISS continued to provide support to the SPLA, thus failing to establish its impartiality and raising serious questions about how the UN coordinated its approach to conflict reduction and protection of civilians under threat.”²⁰⁰

Moreover, since the outbreak of the conflict, civilians started to rescue at UNMISS bases seeking protection. The speed with which the fighting spread required immediate action, and UNMISS leadership took in people fleeing armed reprisals. In the early days of the civil war, it was not anticipated that the UN mission would become the long-term host for tens of thousands of civilians.

During the early months of 2014, UNMISS faced several problems due to the evacuation of nearly all international humanitarian personnel, widespread looting of humanitarian facilities, and combat operations - including attacks on civilians - near UNMISS. on civilians - near UNMISS bases in many locations. By recognizing the logistical and political difficulties, there is no doubt the UNMISS action has saved - and continues to save - many thousands of civilian lives.

¹⁹⁷ *Idem*.

¹⁹⁸ *Ibidem*, pages 28-29.

¹⁹⁹ BBC, *South Sudan President Salva Kiir hits out at UN*, 21 January 2014. Available at: <https://www.bbc.com/news/world-africa-25826598>

²⁰⁰ International Crisis Group, “*South Sudan: A Civil War by Any Other Name*” Africa Report N°217, April 10, 2014. Page 29.

*“Currently, the UN mission has nearly 70,000 civilians sheltering in its bases; this must be the mission’s foremost imperative and will be a critical consideration in shaping its mandate moving forward.”*²⁰¹

In 2014, with *Report of the Secretary-General on South Sudan*²⁰², the UNSC approved the reinforce of the mission's efforts to reflect the unprecedented scope of its protection responsibilities. The resolution established that UNMISS was uniquely positioned to enable the delivery of humanitarian services; the need for reliable and consistent human rights protection reports; and required IGAD to fully and transparently communicate the progress of negotiations to achieve peace so that the mission can rebuild its credibility with all actors.

The UN has played a limited policy role since the conflict began. The Security Council immediately supported the IGAD peace process and indicated its willingness to adopt sanctions at the request of the region, however, as was shown above when discussing the relationship with the AU, IGAD had no interest in sanctioning the GoSS. As with other international actors, the UN offered no credible alternatives to the use of force to move negotiations forward.

*“The decision not to create an International Contact Group to facilitate discussion and coordination between international actors under UN auspices in mid-2014 left IGAD in the driver’s seat. UNMISS has not engaged in the peace process due to controversies surrounding its actions between 2011 and 2013 and focuses on the protection of some 160,000 internally displaced civilians sheltering in its bases.”*²⁰³

UNMISS is slowly regaining credibility, the UN, under the auspices of the envoy for Sudan/South Sudan, the International Crisis Group suggested that *“should consider presenting IGAD with the tools the UN could bring to bear in support of IGAD-PLUS including sanctions, an arms embargo and mandating a Chapter VII force to provide “third-party security” for a transitional government as outlined in the peace agreement [...] Equally critically, the UN should present IGAD with the*

²⁰¹ *Ibidem*, page 30.

²⁰² U.N.S.C., *Report of the Secretary-General on South Sudan*, 2014/158

²⁰³ International Crisis Group, *South Sudan: Keeping Faith with the IGAD Peace Process*, Crisis Group Africa Report N°228, 27 July 2015. Page 21.

*timeframes necessary to mobilise such support and the parameters under which the UN would be able to employ such tools.”*²⁰⁴

The peacekeeping approach that characterizes UNMISS proved counterproductive when it became clear that the civil conflict would not be resolved in a matter of months, *“India emphasised the risks being faced by their peacekeepers due to the mixing of mandates and the taking of sides (perceived or otherwise) in internal armed conflicts which undermines their impartiality and opens up liability to their forces being treated as “enemy combatants” under international law.”*²⁰⁵

Secretary-General Ban Ki Moon in June 2014 stated that *“when there is no clear path towards peace, crises will inevitably recur, and peacekeeping operations are much more likely to struggle to meet their mandates. [...] In South Sudan, conflict has re-emerged. To this end, I have asked the Secretariat to initiate work on a review of UN peacekeeping. [...] The continued use of UN peacekeeping by the Security Council testifies to its continuing relevance and its unique universality and legitimacy.”*²⁰⁶

The gaps in accountability and legitimacy between the international organization and the state are increasingly being filled by regional organizations with the consequences that have been shown above. While there has been a decrease in the political and security influence of UNMISS and UN leadership more generally in the South Sudan crisis, this decrease has been accompanied by an increase in African engagement as regional powers seek an African solution.

State building cannot be interpreted as a matter of unconditional support for whoever is in charge, however benign they may look, Dr Hutton in 2014 highlighted that *“Centralising and formalising authority in the state is going to be problematic as has been seen in similar intractable conflict systems in Somalia, DRC, CAR, Libya and Mali. [...] This mandate has set the groundwork for UNMISS to provide*

²⁰⁴ *Ibidem*, page 22.

²⁰⁵ Hutton, Lauren, *“Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War”*, Clingendael Institute, 2014, Page 21

²⁰⁶ U.N.S.G. statement, *Secretary-General's Remarks at Security Council Open Debate on Trends in United Nations Peacekeeping*, NYC, 11 June 2014 available at: <https://www.un.org/sg/en/content/sg/statement/2014-06-11/secretary-generals-remarks-security-council-open-debate-trends>

*immediate civilian protection to the thousands of people at need in the bases but situates the mission well to support not only the current IGAD ceasefire but whatever else is produced by the negotiation process. UNMISS really is here to stay.*²⁰⁷

China's role in civil conflict and the protection of economic interests

As was shown in the previous section, during the CPA period China attempted to negotiate trade agreements with the GoSS but faced deep distrust from the SPLA/M due to its approach of supporting the state of Sudan during the civil conflicts that ended with the signing of the CPA. China has devoted a lot of time and resources in recent years to build strong relations with Juba to improve its reputation after years of close cooperation with Khartoum. Starting from 2005 China began to invest heavily in the oil industries of both Sudan, China is South Sudan's main oil exporter and when the civil war broke out Beijing was “*primary consumer of their oil and was poised to make a desperately needed \$2 billion dollar investment in basic infrastructure in South Sudan.*”²⁰⁸

In 2011 South Sudan needed strong *development* investment especially in infrastructure, Chinese investors began to expand well beyond the oil sector into a growing and increasingly resource rich area. “*That relationship was not entirely smooth: soon after independence, China was forced to renegotiate its contracts, while also being called upon to intervene during the 2012 oil crisis between Sudan and South Sudan.*”²⁰⁹

With the outbreak of civil war, Beijing was again called upon to act to secure one of the highest risk energy investments. The war led to the second halt in oil production in as many years, destroyed or rendered impassable many Chinese people, oil company workers were forced to seek shelter at UN bases, and high-

²⁰⁷ Hutton, Lauren, “*Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War*”, Clingendael Institute, 2014, Page 27

²⁰⁸ *Ibidem*, page 16.

²⁰⁹ 16-17

level officials were immediately evacuated. China deployed largely non-combatant troops when UNMISS began, contributing to the mission's initial mandate of building peace and status through economic and social reconstruction projects for local communities. China subsequently decided to deploy combatant troops as part of a strengthened UNMISS force after the outbreak of violence in December 2013. Although this deployment was in accordance with the new UNMISS mandate to protect civilians, China asked for an explicit reference to the protection of foreign nationals and oil installations in the UN Security Council resolution according to some international observers²¹⁰ China through the UN peacekeepers was acting to protect its economic interests in South Sudan.

China has played an active diplomatic role in defusing tensions between Sudan and South Sudan over outstanding CPA issues, and recently in the search for peace in South Sudan, albeit with a keen eye on its economic interests in the region.

According to researcher Fritz Nganje²¹¹ *“Beijing’s commitment to conflict prevention and the protection of civilians from serious human rights violations in South Sudan is not without its critics. China’s relations with Sudan and South Sudan are seen to be largely driven by the imperative to promote and protect its economic interests, expressed mostly in massive investment in the oil sector that straddles both countries. Critics argue that China’s historical support to the government in Khartoum was a contributing factor to the marginalisation and underdevelopment of southern Sudan and other regions of the country, fuelling armed conflict and the massacre of civilians in places like Darfur, Southern Kordofan and Blue Nile. Some see a replication of this trend in South Sudan, making a connection between Chinese political, economic and military support to the authorities in Juba and allegations of corruption, dictatorship, mismanagement and marginalisation that underpin the current crisis.”*²¹²

²¹⁰ Colum Lynch, a senior staff writer at *Foreign Policy*. U.N. Peacekeepers to Protect China’s Oil Interests in South Sudan, *Foreign Policy*. Available at: <https://foreignpolicy.com/2014/06/16/u-n-peacekeepers-to-protect-chinas-oil-interests-in-south-sudan/>

²¹¹ Lecturer in International Relations, University of Johannesburg

²¹² Nganje, Fritz, *Emerging Powers and the Responsibility to Prevent Mass Atrocities: lesson from South Sudan*, Sudd Institute, 2014, page 13.

To protect its economic interests, Chinese diplomats worked closely with IGAD representatives, Beijing provided the Horn of Africa international organization with funding, political and strategic coordination, a secondment of Chinese military personnel to the Monitoring and Verification Mechanism (MVM). Foreign Minister Wang Yi chaired a meeting of South Sudan's rival parties in January 2015, agreeing on a five-point plan to *accelerate* South Sudan's peace process. China also designates the deputy force commander, the second-highest military position of UNMISS. In addition, Beijing always conducted close consultation and coordination with other Western special envoys engaged in the South Sudan peace process, particularly those of the United States and the European Union.

Due to numerous deaths among Chinese civilians engaged in South Sudan, and Chinese peacekeepers engaged in a standoff with South Sudan's rebels in 2018. In August 2018, China National Petroleum Corporation (CNPC) signed an agreement with South Sudan's Ministry of Petroleum and Mines to conduct hydrocarbon exploration in the heart of the country, outbidding French and Kuwaiti competitors. Since South Sudan depends on oil for 98 percent of its budget, China also enjoys more than enough leverage to bring the East African country into its sphere of influence.

*“China wants to maintain its substantial oil investment in South Sudan to take advantage of current oil production and on the assumption that better days will come. [...] When that happens, Chinese companies will be well positioned to develop new oil fields in the country. This is part of China's long-term strategy, even if it means tolerating short-term losses”*²¹³.

CNPC has benefited from the South Sudanese civil war, as the long conflict has discouraged investment by other oil companies. *“The South Sudanese civil war has damaged China's national interests by presenting a barrier to Chinese influence in South Sudan [...] his lack of political stability is undermining China's strategic objectives. China will remain invested in South Sudan only as long as operations*

²¹³ How China Came to Dominate South Sudan's Oil, The Diplomat, February 11, 2019, available at: <https://thediplomat.com/2019/02/how-china-came-to-dominate-south-sudans-oil/>

there continue to make economic sense. In addition, the safety of local Chinese workers cannot be guaranteed".²¹⁴

China played a key role in achieving peace in South Sudan. At the expense of the South Sudanese population has greatly increased the Chinese presence in the region, China will play a key role in maintaining peace and monitoring the ceasefire.

An agreement without stationary peace

Throughout the year 2016 in South Sudan there were massacres, repeated human rights abuses and repeated attacks on civilian populations. The condition in the country was of very strong political instability and a large part of the civilian population, especially in the capital Juba, lived in camps set up by UNMISS to protect civilians. For this reason, the UNSC met on 12 August 2016 to adopt a very tough resolution. The UNSC demanded that all parties immediately end the fighting across South Sudan, stating that South Sudan's leaders should implement the permanent ceasefire declared in the Agreement on the Resolution of the Conflict in the Republic of South Sudan. UNSC strongly accused the Transitional Government of National Unity of South Sudan of immediately ceasing to obstruct UNMISS in the performance of its mandate, "*authorizes UNMISS to use all necessary means to carry out its tasks*"²¹⁵ The Secretary-General was instructed to take all appropriate measures and, in consultation with countries contributing troops and police, to identify options, including by seeking the support of Member States, to enhance the security of UNMISS personnel to enable UNMISS to effectively carry out its mandate in a complex security environment, including through the improvement of UNMISS' early warning, surveillance and intelligence-gathering capabilities. "*Determining that the situation in South Sudan continues to constitute a threat to international peace and security in the region, Acting under Chapter VII of the*

²¹⁴ *Idem.*

²¹⁵ U.N.S.C, *Adopted by the Security Council at its 7754th meeting, RES/2304 (2016), 12 August 2016, page 3*

Charter of the United Nations”²¹⁶ The UNSC imposed an arms embargo, demanding that all UN Member States immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the territory of South Sudan, including to the Government of South Sudan or the SPLA-IO of arms and related material of all types, including weapons and ammunition, as well as technical assistance, training, financial and other assistance. Invited all States, in particular States bordering South Sudan, to inspect, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargoes bound for South Sudan, in their territory, including ports and airports, if the State concerned has information that provides reasonable grounds to believe that the cargo contains items whose supply, sale or transfer is prohibited.

Unfortunately, the 2016 resolution was short-lived, as it lacked the necessary support for final approval by the UNSC: “*Sanctions Adoption Fails by 7 Votes in Favour, 8 Abstentions amid Doubt over Wisdom of Punitive Steps as Government Reports Progress on Ground [...] Voting in favour of the draft resolution were representatives of France, New Zealand, Spain, Ukraine, United Kingdom, United States and Uruguay. [...] Delegations that abstained were China, Russian Federation, Angola, Egypt, Japan, Malaysia, Senegal and Venezuela. China’s representative said his country was committed to restoring peace and stability in South Sudan as soon as possible.*”²¹⁷

After several failures, a new round of meetings began in the spring of 2018 with several meetings in neighbouring Ethiopia, mediation by the regional organisation IGAD and the presence of government, opposition and civil society representatives, as well as religious leaders. On 20 June, the first meeting between President Salva Kiir and opposition leader Riek Machar took place in the Ethiopian capital. The two leaders had not met face-to-face since 2016. Several more consultations followed in which several mediators participated, and which led to the initialling of a new agreement: Revitalized Agreement on the Resolution of Conflict in South Sudan or

²¹⁶ *Ibidem*, page 6.

²¹⁷ UNSC/12653, *Security Council Decides against Imposing Arms Embargo on South Sudan, Designating Key Figures for Targeted Sanctions*, 23 December 2016

R-ARCSS²¹⁸ on 12 September 2018. This provided for a new transitional government of national unity to be in place by 12 May 2019, but once again the parties agreed to postpone the implementation of the agreement by six months. The report by the Armed Conflict Location and Event Data Project (Aced) points out that “*peace agreements in South Sudan have typically reorganised power rather than changing the way it works and reflect the priorities of South Sudan's military elites along with the country's neighbours and external partners, while largely ignoring those of its civilian population*”²¹⁹.

In this last phase of the conflict, the Vatican also intervened forcefully with the aim of keeping faith with the R-ARCSS agreements and trying to advance the peace process. In April 2019, Pope Francis Rome Declaration on The Peace Process in South Sudan Salva Kiir and the African country's vice-presidents-designate, who are due to launch a new government in May. On that occasion, the Holy Father said: “*Peace is possible, the armistice must be respected. The people are exhausted by the conflicts of the past*”²²⁰. The Pontiff on that occasion did not spare the international community any criticism, stating that: Peace is “*the first gift that the Lord has brought us*”²²¹ and is “*the first task that the heads of nations must pursue*”²²² it is “*the fundamental condition for the respect of the rights of every man as well as for the integral development of the whole people*”²²³.

On 13 January 2020 the “*Declaration of Rome*” was signed at the Community of Sant'Egidio, bringing together for the first time all the political parties in the country. The declaration envisages a renewed ceasefire from 15 January and road maps to consolidate unity and reconciliation in the country.

²¹⁸ IGAD, *Revitalized Agreement on the Resolution of Conflict in South Sudan or R-ARCSS*, Addis Ababa Ethiopia, September 12nd 2018. Available at: <https://docs.pca-cpa.org/2016/02/South-Sudan-Peace-Agreement-September-2018.pdf>

²¹⁹ Valentina Giulia Milani, *Sud Sudan: conflitti intercomunitari, un'analisi*, Africa Rivista, 30 August 2021 available at: <https://www.africarivista.it/sud-sudan-conflitti-intercomunitari-unanalisi/190201/>

²²⁰ La Stampa, *Papa Francesco bacia i piedi ai leader del Sud Sudan: basta guerre*, April 12nd 2019, available at: <https://www.lastampa.it/vatican-insider/it/2019/04/12/news/papa-francesco-bacia-i-piedi-ai-leader-del-sud-sudan-basta-guerre-1.33694577>

²²¹ *Idem*.

²²² *Idem*.

²²³ *Idem*.

*“Under the auspices of the Community of Sant'Egidio in Rome, and witnessed by IGAD, the government of South Sudan, the South Sudan Opposition Movements Alliance (SSOMA), The SPLM/A-IO, and NDM has signed a peace declaration in which they recommit to the Secession of Hostilities Agreement of December 2017 to avoid confrontation between the signatories and non-signatories’ parties of South Sudan peace agreement. The parties called for continued and uninterrupted humanitarian access to the local and international organization.”*²²⁴

Paolo Impagliazzo, Secretary General of Sant'Egidio Community, thanking all the participants for their commitment, said that the Rome Declaration *“is the result of many days of work but also of the commitment of Sant'Egidio in these years to facilitate the political dialogue in South Sudan.”*²²⁵ The Sant'Egidio Community is committed to helping the parties put in place mechanisms to resolve differences. *“The ceasefire is necessary to rebuild trust and hope in our people”*²²⁶ said Barnaba Marial Benjamin, the envoy of President Salva Kir. *“We have followed Pope Francis' invitation to leave aside differences and seek what unites us, the method that has also inspired the Community of Sant'Egidio”* he continued, pointing out how *“in these days of meeting between the South Sudanese it has been possible to recognise the common history that unites us.”*²²⁷ A signature without preconditions and with the commitment to work to build a lasting peace together with the government and the other signatories. Pagan Amum Okiech, SSOMA spokesman, said the credit for the agreement goes to Pope Francis. *“That gesture of kissing our feet inspired us. His recent call for a new year of prosperity and brotherhood is a dream come true”*²²⁸ the spokesperson said.

To the detriment of local populations, in 2021 the situation in South Sudan still remains compromised, the UNSC on March 12, 2021, expressed grave concern

²²⁴ IGAD, *Rome Declaration on The Peace Process in South Sudan*, Rome Italy. Available at: <https://igad.int/programs/115-south-sudan-office/2330-rome-declaration-on-the-peace-process-in-south-sudan>

²²⁵ *South Sudan: All political parties sign a peace agreement in Sant'Egidio*, 13th January 2020 - Rome, Italy. Available at: <https://www.santegidio.org/pageID/30284/langID/en/itemID/34068/South-Sudan-All-political-parties-sign-a-peace-agreement-in-Sant-Egidio.html>

²²⁶ *Idem.*

²²⁷ *Idem.*

²²⁸ *Idem.*

about the increase in violence between armed groups in parts of South Sudan, which has killed and displaced thousands of people. UNSC expressed grave concern about continued reports of sexual and gender-based violence and the use of sexual violence as a tactic by parties to the conflict. Inhuman and degrading treatment based on perceived political affiliation persists in South Sudan. There is continued obstruction of UNMISS by the GoSS and opposition groups, including restrictions on freedom of movement, assault on UNMISS personnel, and limitations on mission operations, including restrictions on UNMISS patrols and efforts. *“Decides to extend the mandate of UNMISS until 15 March 2022; Decides that UNMISS’s mandate is designed to advance a three-year strategic vision to prevent a return to civil war in South Sudan, to build durable peace at the local and national levels, and to support inclusive and accountable governance and free, fair, and peaceful elections in accordance with the Revitalised Agreement”*²²⁹.

UNSC called on all parties to the conflict and other armed actors to immediately end the fighting throughout South Sudan and engage in political dialogue, and further calls on South Sudan's leaders to implement the permanent ceasefire declared by the 2018 peace agreement and the commitments made in the Rome Declaration. Encouraging the Special Representative of the Secretary-General to direct the operations of an integrated UNMISS and to coordinate all United Nations system activities in the Republic of South Sudan, and to exercise his good offices to lead the United Nations system in assisting the AU, IGAD, and other actors, as well as the parties, in implementing the revitalized agreement and to promote peace and reconciliation.

²²⁹ U.N.S.C., *Resolution 2567 (2021) Adopted by the Security Council*, 12 March 2021, available at: [https://undocs.org/en/S/RES/2567\(2021\)](https://undocs.org/en/S/RES/2567(2021))

4. The humanitarian crisis in South Sudan

Before reaching the conclusion of this thesis, it is important to address two final topics regarding the humanitarian crisis in South Sudan. The first item relates to the various human rights reports prepared by the main regional and international bodies on the protection and respect of human rights. The second issue, which is highly topical, concerns the possibility of establishing a "hybrid court" to judge those who committed war crimes and crimes against humanity during the civil war.

The most important report on the situation in South Sudan was requested by the PAC of the African Union in late 2013, shortly after the outbreak of the conflict. At its 411th meeting held in Banjul, Gambia, on December 30, 2013, the Peace and Security Council (PSC) requested the Chairperson of the Commission, in consultation with the Chairperson of the African Commission on Human and Peoples' Rights (ACHPR) and other relevant AU structures, to urgently establish a Commission to investigate human rights violations and other abuses committed during the armed conflict in South Sudan and to make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all South Sudanese communities.

The report of the AU Commission of Inquiry on South Sudan (AUCISS) was released on 27 October 2015. The AUCISS consisted of former President Olusegun Obasanjo of Nigeria (chair), the Honourable Sophia Akuffo of Ghana, Ms. Bineta Diop of Senegal, Professor Mahmood Mamdani of Uganda, and Professor Pacifique Manirakiza of Burundi.

In implementing its mandate, the AUCISS undertook extensive consultations with South Sudanese stakeholders, including the government, Sudan People's Liberation Movement in Opposition (SPLM/IO), political parties, internally displaced persons (IDPs), civil society organizations, and other South Sudanese parties. AUCISS also consulted with IGAD, countries in the region, the United Nations, and other international stakeholders.

The committee was quick to note that South Sudan in 2015 had yet to ratify any of the major human rights instruments, whether global or regional. Therefore, under international treaty law, none of these instruments can be a source of binding obligations for South Sudan. However, some human rights norms that constitute customary international law are binding on states regardless of treaty ratification. Key provisions of the Universal Declaration of Human Rights (UDHR) have achieved this status. Similarly, prohibitions against torture, cruel and degrading treatment, extrajudicial executions, slavery, recruitment and use of children in hostilities, and arbitrary detention are binding on all parties to a conflict.

In addition, The Transitional Constitution of South Sudan also contains guarantees of certain fundamental rights for its citizens, including life, human dignity, equality and non-discrimination, liberty and security of the person, freedom from arbitrary arrest and detention, due process of law, and equal protection of the law.

In the executive summary of the final report of the African Union investigation commission on Southern Sudan there are the recommendations concerning the various institutions of South Sudan

The *recommendations related to the army (SPLA)* note that although the whole project of transforming the is undoubtedly a costly and long-term process, it is critical to mobilize resources, but more importantly to cultivate the political will to transform. “*The Commission recommends that reform efforts should align with the constitutional commitment to create a diverse, national army under effective centralized command.*”²³⁰ To limit the militarization of civilian institutions and public life in general, “*The Commission recommends the strengthening of parliamentary oversight of the security forces in general and effective measures to structurally delink – other than at the top level of policy direction – political leadership from the military. [...] The Commission recommends measures to degrade the ability of political leaders to mobilize and arm militias, as has been the case in the past.*”²³¹

²³⁰ AU Commission of Inquiry on South Sudan (AUCISS), “*Final Report of The African Union Commission of Inquiry on South Sudan - Executive Summary*”, Addis-Ababa, 15 October 2014, page 11

²³¹ *Ibidem*, Page 12.

Commission called for the development of broader reforms that establish political and economic justice to strengthen and create a more sustainable republic. The commission also highlighted that “*given the large numbers of young people in the armed forces, any demobilisation process must include the development and implementation of programmes that will provide alternatives to young people, especially men, to violence and conflict. These programmes could include, amongst others, vocational training for those demobilised from the military and police services as well as micro-finance for self-employment of tradesmen. The Commission also recommends consideration of primary and secondary school curricula that emphasises and prioritises peace building and human rights.*”²³²

It was clear from the Commission's various consultations that the absence of equitable resource sharing and the consequent marginalization of various groups in South Sudan was a seething source of resentment and disillusionment underlying the ensuing conflagration, even though the implosion of the conflict was caused by the political struggle of the two main actors. The Commission found that the struggle for political power and control of natural resource revenues, corruption and nepotism appear to be the key factors behind the outbreak of the crisis that devastated the entire country.

The economic aspects of the conflict, such as control of natural resources (oil) have been a source of frustration among the various tribes and the diaspora, who are unable to benefit from the dividends of independence and, above all, their country's natural resources: “*The Petroleum Management Act sets reporting standards for Government and has the potential to ensure an accountable and equitable industry. However, the Commission expresses concern about allegations of corruption, inequitable resource distribution and lack of accountability.*”²³³

Regarding human rights violations The Commission's inquiry and investigations focused not only on key areas in the four states that were the main theatres of violence, but also extended to other places where violations may have occurred or where relevant evidence could be found. Survey sites have included Juba and its

²³² idem

²³³ Ibidem, Page 15

environs, Bor (Jonglei), Bentiu (Unity), Malakal (Upper Nile), the rural areas surrounding these major cities, and the Kakuma refugee camp in Kenya.

*“The Commission found cases of sexual and gender-based violence committed by both parties against women. It also documented extreme cruelty exercised through mutilation of bodies, burning of bodies, draining human blood from people who had just been killed and forcing others from one ethnic community to drink the blood or eat burnt human flesh.”*²³⁴

The Commission found that most of the atrocities were carried out against civilian populations not taking an active part in hostilities. Places of worship and hospitals have been attacked, humanitarian assistance has been impeded, towns looted and destroyed, places of protection have been attacked, and there have been reports of possible enlistment of children under the age of 15.

The Commission found that human rights violations and other abuses were committed in the city of Bor in connection with massive and indiscriminate attacks on civilians and civilian property. *“Testimony from women in UNMISS PoC Site in Unity State detailed killings, abductions, disappearances, rapes, beatings, stealing by forces and being forced to eat dead human flesh. [...] The Commission found that most of the atrocities were carried out against civilian populations taking no active part in the hostilities. [...] Visible evidence of torched non-military objects like houses, marketplace, administration houses, hospital and hospitals form the basis of the Commission’s conclusion that these crimes were committed.”*²³⁵

Despite the constant violations of human rights, the Commission believed that, based on the information available to it, *“there are no reasonable grounds to believe that the crime of genocide has occurred. Despite the seeming ethnic nature of the conflict in South Sudan, the Commission, during its consultations with various groups and individuals did not have any reasonable grounds to believe that the crime of genocide was committed during the conflict that broke out on December 15, 2013.”*²³⁶

²³⁴ Ibidem, page 21

²³⁵ Ibidem, page 22

²³⁶ Ibidem, page 23

On January 21, 2016, another important report was released jointly by the United Nations Mission in South Sudan (UNMISS) and the Office of the High Commissioner for Human Rights (OHCHR). “*The State of Human Rights in the Protracted Conflict in South Sudan*” shows the widespread human rights violations and abuses have been committed in South Sudan by all parties to the conflict since December 2013, including hundreds of extrajudicial killings, enforced disappearances, sexual violence, forced recruitment, and indiscriminate attacks on civilians. The report, by the , shows that very few places in the conflict areas have been safe, as the parties have intentionally attacked traditional safe havens, such as places of worship, hospitals, and, sometime, the United Nations bases.

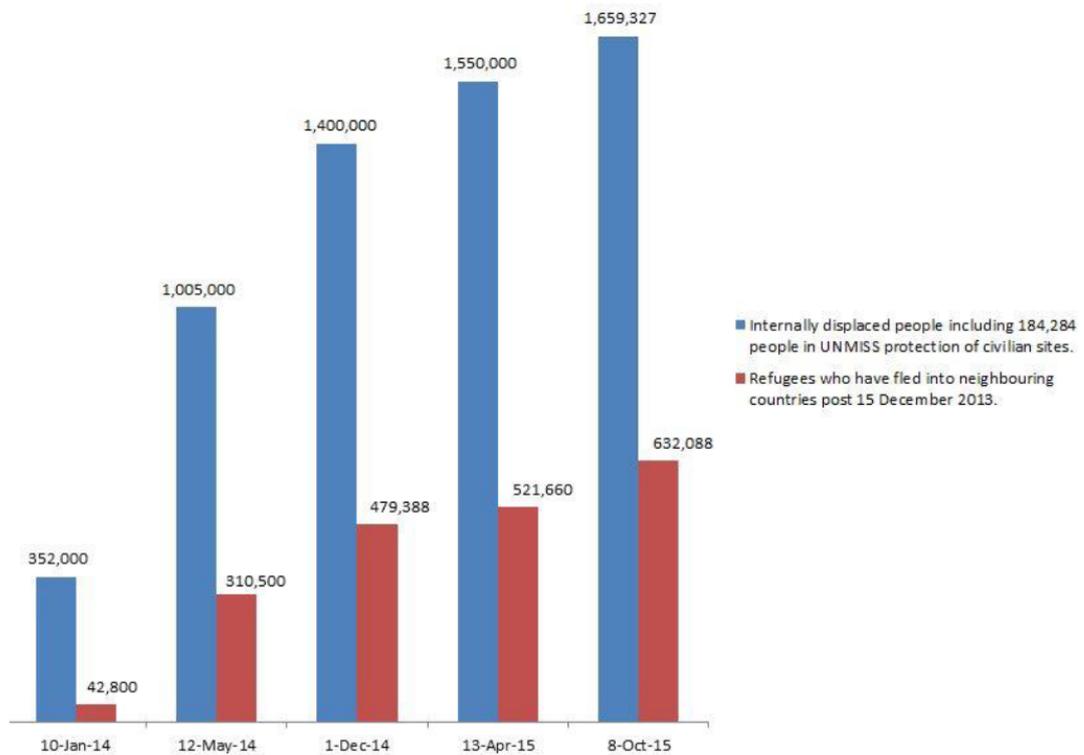
About the displaced people, at the end of 2015-year, according to recent reports from humanitarian actors in South Sudan, approximately 2.2 million individuals have been displaced due to fighting, most of them from conflict states. Of the 2.2 million, 1.6 million are internally displaced within South Sudan, while the remaining 600,000 remain as refugees in neighbouring countries. (See Figure 1.) Of those in the country, over 170,000 individuals currently remain within UNMISS PoC sites. Over one million individuals are in a different variety of situations, either they are displaced individuals in other parts of the country, including inaccessible areas in the bush or swamps; or in urban areas for example in Juba or remain constantly on the move with the risk of being trapped in combat zones. “*These individuals are endangered, face threats and are in a state of persistent insecurity, with limited – if any – access to services such as food and healthcare.*”²³⁷

In the face of this massive displacement and disruption of basic services, a disturbing feature of the conflict has been the frequent disregard by the warring parties for safe havens. As thousands of civilians left their homes and communities to seek safety, the parties attacked hospitals, religious institutions, and areas where IDPs gathered. Schools and clinics have been occupied by military forces. The fighting as well as geographic challenges in many of the most affected areas e.g., limited access to roads and inaccessibility due to water levels during the long rainy

²³⁷ UNMISS, UN Office of the High Commissioner for Human Rights; “*The State of Human Rights in the Protracted Conflict in South Sudan*”; Juba/Geneva, January 21st, 2016. Page 13

season, have hampered interventions and protection efforts as well as UNMISS HRD's ability to monitor the human rights situation.

“By emptying the counties of their population, it could appear that the Government has been trying to deprive SPLM/A-IO of any human and material support. This could be inferred from the dynamics of the SPLA attacks, which targeted villages inhabited by civilians, setting their homes on fire and looting their property to prevent them from remaining there. Food was either stolen or burnt and cattle taken away. As a result of these attacks, civilians have been deprived of any source of livelihood, with the only option being to leave the area and seek refuge elsewhere. When visiting some of the places affected by the conflict, such as Ngop and Guit, UNMISS found completely deserted villages. Most of the IDPs interviewed arriving at the UNMISS PoC site from southern states reported that they had been obliged to leave due to insecurity or lack of food.”²³⁸



Source: OCHA

Figure 3

²³⁸ *Ibidem*, page 14

Another serious human rights violation during the civil war was the forced recruitment of "child soldiers". It is important to recall that the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, approved in 2000, increases the minimum age for direct participation in firefights from 15 to 18 years (Article 1) and prohibits conscription or forced recruitment of children under the age of 18 (Article 2).

Reports of child recruitment by both government and opposition forces have continued despite repeated commitments by both sides to end the practice *"According to the Report of the Secretary-General on Children and Armed Conflict in South Sudan (2014), there has been a marked increase in reports of child recruitment during the period of the conflict compared to the post-independence and pre-conflict periods. The report indicates that several thousand children have been associated with State and non-State armed actors"*²³⁹ In 2014, the government signed an agreement to commit to security forces devoid of child soldiers and took several steps to do so, including issuing punitive orders to recruit children. In 2014, SPLM/A-IO forces also signed a commitment with the United Nations not to recruit child soldiers. *"However, as of December 2015, 29 schools continued to be used by parties to the conflict for military purposes."*²⁴⁰ Despite formal declarations, UNMISS continued to receive multiple reports that child soldiers remain in the ranks of all parties to the conflict.

*"According to information collated by child protection actors, it is believed that at least 13,000 to 15,000 child soldiers were being utilized by both parties to the conflict as of December 2015, but mainly with opposition forces. [...] Released children have been receiving psychosocial support to reintegrate better into civilian life. The severe lack of teachers in the area could provide children with an incentive to rejoin the military."*²⁴¹

²³⁹ *Ibidem*, page 21

²⁴⁰ *Idem*.

²⁴¹ *Ibidem*, page 22

According to the UN report, other human rights violations include lack of police and judicial capacity, unfair trials, arbitrary arrests and detentions, inhumane and degrading conditions for detainees, and restrictions on freedom of expression.

Now the focus will be on the latest Human Rights Council reports and the human rights situation in the year 2021.

In its resolution 31/20, the Human Rights Council established the Commission on Human Rights in South Sudan for a period of one year. The Commission submitted its first report to the Council at its thirty-fourth session²⁴².

In its resolution 34/25, the Human Rights Council extended the mandate of the Commission for another year and requested it to continue to monitor and report on the human rights situation in South Sudan, to make recommendations to prevent further deterioration of the situation, and to report and provide guidance on transitional justice, including reconciliation.

The Human Rights Council also requested the Commission to determine and report the facts and circumstances, collect and preserve evidence, and clarify accountability for alleged gross human rights violations and abuses and related crimes, including sexual and gender-based violence and ethnic violence, in order to end impunity and provide accountability. The Council further requested the Commission to make this information available to all transitional justice mechanisms, including those to be established under Chapter V of the Agreement on the Settlement of the Conflict in South Sudan, including the Hybrid Court for South Sudan, to be established in collaboration with the African Union. The Human Rights Council extended the mandate of the Commission for an additional year. *“During the current mandate, the Commission took more than 100 detailed individual witness statements and gathered more than 100 documents, including confidential records, covering incidents in South Sudan since December 2013. All of the evidence collected is preserved in the Commission’s confidential database and archives. The Commission extends its gratitude to the Government of South Sudan for facilitating its missions. It also appreciates the assistance and*

²⁴² Human Rights Council, HRC/34/63

*contributions of the African Union, the United Nations Mission in South Sudan (UNMISS), United Nations agencies, civil society organizations and experts.”*²⁴³

At the beginning of the new decade of the 21st century, the situation in South Sudan is still very complex. After more than nine months of delay, and two extensions of the pre-transition period (initially from September 2018 to May 2019) approved by the Intergovernmental Authority on Development (IGAD), the Revitalized Transitional Government of National Unity of South Sudan was established in February 2020, following the resolution of a political impasse between the parties to the Revitalized Agreement on Conflict Resolution in South Sudan regarding the number and boundaries of regional states. The parties also agreed to abolish the previously established 32 states, re-establish 10 states, and recognize three administrative areas. They also agreed to transfer into the new transition period (May 2019 to May 2022) certain security arrangements that could not be completed during the extended pre-transition period. The first vice president and four vice presidents were sworn in in February 2020; cabinet ministers and deputy ministers were appointed in March 2020.

Persistent political posturing, disagreement, suspicion, and mistrust among key parties, however, have resulted in undue delays in achieving key milestones in implementing the governance, political, social, economic, security, and justice elements of the revitalized Agreement, intended to "restore permanent and sustainable peace, security, and stability" in South Sudan. Prolonged contestation over power sharing, including responsibilities at the state and local levels, has left large areas of South Sudan in a governance and security vacuum, fomenting ongoing insecurity, particularly intercommunal and intra-communal violence. In addition to the executive's inability to ensure security and maintain the rule of law, legislative functions also stalled as the parties failed to agree on the reconstitution of the transitional national legislature, composed of the National Assembly and the Council of States.

²⁴³ Human Rights Council (HRC/46/53), “*Report of the Commission on Human Rights in South Sudan*”, February 4th, 2021. Page 2

*“The Commission found that government forces had used starvation as a method of warfare in Western Bahr el-Ghazal (between January 2017 and November 2018) and Jonglei (between 2017 and 2019) States.”*²⁴⁴ Commanders also authorized their soldiers to loot goods essential to the survival of these rural populations, including crops (such as sorghum, cassava, and okra) and livestock (chickens, cattle, and goats). *“The Commission also determined that the violations were part of a widespread or systematic attack directed against the civilian population in Western Bahr el-Ghazal State.”*²⁴⁵

Sustained attacks carried out against numerous towns and villages throughout the state over a few years resulted in a significant number of deaths and cases of rape, as well as the destruction, burning, and looting of property. The resulting physical and food insecurity left civilians with no alternative but to flee their homes to safety elsewhere. *“The Commission concluded that the targeted nature of the attacks, including along ethnic lines, owing to perceived support for the opposition, can amount to the crime against humanity of persecution along political and/or ethnic grounds under article 3 (h) of the draft statute of the hybrid court for South Sudan.”*²⁴⁶

In addition to the use of hunger as a method of warfare, acute food insecurity has increased for the second year in a row, in part due to seasonal rains that caused extensive flooding and severely impacted rural populations in several counties along the White Nile River, particularly in Jonglei, Lakes, Unity, and Upper Nile States. Since the floods began in July 2020, more than one million South Sudanese have been affected by the floods and more than 856,000 people have been displaced and forced to seek refuge on higher ground. Women and children continued to be the hardest hit and some 380 schools were forced to close. By the end of October, one-third of newly habitable schools were occupied by displaced families. Displaced people in even more remote areas did not have access to adequate health care. Both the government of South Sudan and humanitarian actors struggled to

²⁴⁴ *Ibidem*, page 9

²⁴⁵ *Idem*.

²⁴⁶ *Ibidem*, page 10.

reach civilians and provide humanitarian aid in flood-affected areas due to blocked roads, overused airstrips, and general insecurity.

About the protection and respect of human rights, the category that remains most affected is undoubtedly women. *“The Commission notes with concern that the practice of commodifying women as the spoils of conflict has been perpetuated at the local level, as government forces and militias aligned to them, SPLM-IO forces and other armed groups are given the license (as a form of “compensation”) to loot and pillage, abduct, rape and force women into sexual slavery and forced marriage. Far from existing in a vacuum, conflict-related sexual violence in South Sudan is rooted in the structural violence of conflict and is connected to the local political economy.”*²⁴⁷

Sexual violence, including rape, gang rape, abduction, sexual slavery, sexual mutilation, and sexual torture have all been consistent features of the conflict in South Sudan since 2013, and are now being replicated in the conflict at the local level. The Commission also noted that armed clashes at the local level have resulted in the mass displacement of the civilian population, particularly women and girls.

*“On the basis of its findings, the Commission has reasonable grounds to believe that members of the Government of South Sudan have engaged in acts amounting to gross human rights violations and serious violations of international humanitarian law in the context of the armed conflict in Central Equatoria.”*²⁴⁸

Government forces have also failed in their obligation to respect the right to food and freedom from hunger in general. The government has also been complicit in serious human rights violations and abuses by arming and supporting organized militia groups during conflicts located in Jonglei State, Greater Pibor Administrative Area, and Warrap State.

At the subnational level, localized conflicts, often involving organized armed militias affiliated with the Southern Sudan People's Défense Forces (SSPDF) or the Sudan People's Liberation Army in Opposition (SPLA-IO), were characterized by

²⁴⁷ *Ibidem*, page 13.

²⁴⁸ *Ibidem*, page 15.

brutal attacks. Violations against civilians included abductions, including of children, murder, rape and other forms of sexual violence, torture and physical and psychological abuse, looting and destruction of civilian property, crops and other livelihoods.

In Central Equatoria, incidents of sexual and gender-based violence, including conflict-related sexual violence, continued to be widespread and pervasive, even in the context of localized conflicts, and were characterized by a pattern of terror and subjugation. Violations documented by the Commission included rape and gang rape, sexual mutilation, forced marriage, abduction, and sexualized torture. Children, including girls, were also victims of sexual exploitation.

Arbitrary arrests and detentions, and other restrictions on freedom of expression, opinion and assembly, also continued to characterize daily life in South Sudan, with acts that violated the right to information and expression, and freedom of association and assembly under the African Charter on Human and Peoples' Rights. Furthermore, South Sudan, through continuous acts of forced disappearance, has failed in its duty to investigate in good faith all allegations of violation of human rights, especially when only the authorities had relevant information.

*“Localized conflict also continued to pose a massive risk to stability in South Sudan, given the lack of accountability for gross human rights violations and abuses and violations of international humanitarian law. The risk to stability is compounded by weak State structures, including at the subnational level, predatory elites and their competition for political power and economic resources, as well as the failure to manage ethnic divisions and plurality.”*²⁴⁹

This report written by the U.N. Human Rights Council demonstrates how to the present day, in the year 2021, violence has not ceased, and local and national political instability damages the lives of populations who are forced to flee conflict zones.

²⁴⁹ *Ibidem*, page 16.

the Hybrid Court of South Sudan

In this section, developments in the creation of the Hybrid Court of South Sudan (HCSS) will be analysed. As established by the CPA, the GoSS became a subject of international law. Thus, although South Sudan has not formally acceded to the ICCPR, it has always been obliged to provide an effective remedy for human rights violations as it automatically assumed Sudan's ICCPR obligations at the time of its independence. Moreover, as a member of the UN, it is bound by the UN Charter to act for the UN's common purpose of promoting and respecting human rights. Despite this, as has been shown in previous sections, all parties to the conflict repeatedly failed to violate their international obligations. For this reason, the signing of the ARCSS on 17 August 2015 unequivocally recognised past human rights violations and the need for accountability, thus providing for the establishment of the HCSS. It was the intention of the AUCISS that the establishment of a hybrid court would be part of a broader process of social reconciliation with the aim of achieving sustainable peace in South Sudan. Unfortunately, according to Owiso Owiso²⁵⁰ *“While individual criminal responsibility as a transitional justice mechanism is now well-established [...] criminal prosecutions in circumstances of mass violations are generally time and resource intensive such that not all perpetrators can be prosecuted. It is for this reason that the International Criminal Court (ICC), for example, concentrates on individuals considered to bear the greatest responsibility for international crimes”*²⁵¹

The UN defines a hybrid court as one whose jurisdiction and composition is mixed, exhibits international and national aspects, and is often located within the territory of the crime. The choice of a hybrid court over an international court is considered

²⁵⁰ Mr Owiso Owiso has been admitted as a PhD Candidate – Public International Law (University of Luxembourg). He holds a Master of Advanced Studies – Transitional Justice, Human Rights and the Rule of Law (Geneva Academy of International Humanitarian Law and Human Rights), an LL.M – Human Rights and Democratisation in Africa (Pretoria), PGD-Law (Kenya School of Law) and an LL. B – Hon. (Nairobi). Owiso is an Advocate of the courts of Kenya.

²⁵¹ Owiso Owiso, “The proposed hybrid court for South Sudan”, African Journal on Conflict Resolution AJCR 2018/2, available at: <https://www.accord.org.za/ajcr-issues/the-proposed-hybrid-court-for-south-sudan/>

better where national systems are non-existent or unable to address mass violations and where a purely internationalised mechanism would not gain local acceptance. South Sudan presents such a scenario, which is why the international community strongly promoted the proposal of the HCSS as a superior tribunal independent of South Sudan's judicial system.

The ARCSS identified the African Union Commission (AUC) as responsible for establishing the HCSS. The HCSS has broad temporal jurisdiction over international crimes committed from 15 December 2013 to the end of the 30-month transition period. Although XXX notes that “*In hindsight, there was much wisdom in extending this jurisdiction to beyond the signing of the Agreement, especially considering that more violations have since occurred after the formation of the transitional government when Kiir and Machar fell out once again.*”²⁵²

The court's jurisdiction includes genocide, war crimes, crimes against humanity, sexual crimes, gender crimes and other serious crimes under both international and Sudanese law. “*This expansive jurisdiction is designed to ensure that all possible serious crimes committed during this period are prosecuted. However, in relation to South Sudanese law the ARCSS (IGAD 2015: chap V, 3.1.1) simply says ‘and/or applicable South Sudanese law’ without elaborating the specific laws, be they substantive, procedural or evidentiary. The applicable domestic law should be clarified beforehand, preferably by the anticipated statute, in order to eliminate the possibility of applying laws that may be inconsistent with international standards.*”

253

The ARCSS expressly excludes the possibility of immunity or amnesty from criminal liability. Non-immunity has long been established in international criminal law judging by the constitutive instruments of past and current international criminal justice mechanisms. As a recent UNDP survey reveals most South Sudanese attribute the intransigence of some of their leaders to the de facto immunities enshrined in the CPA (UNDP 2015:23). The ARCSS also stipulates that person indicted or convicted by the court are ineligible to participate in government.

²⁵² *Idem.*

²⁵³ *Idem.*

The core objectives of the AU, as enshrined in the Constitutive Act of the African Union, have an approach focused on promoting human rights, peace, security and stability in Africa. The AU seeks to achieve these objectives through the restoration of the rule of law in post-conflict states and conflict resolution mechanisms at national and continental levels. According to *“This is recognition of the fact that peace and security are only achievable if governance structures of individual countries and of the AU are effective, stable and responsive to the people’s needs. As such, the security of individual African countries is both a domestic as well as a continental concern.”*

The leaders of the parties to the conflict did not welcome the establishment of the HCSS in fact in 2016 they wrote a joint article to the New York Times. Although Machar himself later denied having written this article but that it was the work of Kiir alone²⁵⁴. The president stated that: *“The international community must consider the current state of our country. Years of war have left South Sudan with one of the highest levels of military spending by gross domestic product in the world. The army and its former opponents now need to be integrated. Over time, tens of thousands of soldiers must be decommissioned and introduced into civilian life. We fear that this task could be put in jeopardy if members of once opposing forces — from officers to privates — find themselves targeted with legal action. It is easy to see how some people, having known nothing but war, may prefer to return to the battlefield than stand trial in a foreign country. [...] However, there are recent precedents that demonstrate that this route is the most certain guarantee of stability. In Northern Ireland, a peace process brought bitter enemies to the negotiating table under a pledge of legal amnesty, and then into high office. Now, the country has guaranteed peace. The same is possible in South Sudan.”*²⁵⁵

²⁵⁴ Editors’ Note: (June 11, 2016) Four days after publication of this article, one of the authors, First Vice President Riek Machar, disavowed the contents, saying that he had not been consulted about the essay, which was submitted by representatives of the South Sudan president, Salva Kiir. The president’s spokesman maintains that Mr. Machar had been consulted before the essay was written.

²⁵⁵ By Salva Kiir and Riek Machar, “South Sudan Needs Truth, Not Trials”, New York Times, June 7, 2016, available at: <https://www.nytimes.com/2016/06/08/opinion/south-sudan-needs-truth-not-trials.html>

On 30 January 2021, the Government of South Sudan finally agreed to form the Hybrid Court, as set out in the 2015 Agreement on Conflict Resolution in the Republic of South Sudan (ARCSS) and the revitalised 2018 ARCSS.

The move was quickly welcomed by the international community. The chairperson of the African Union Commission, Moussa Faki Mahamat, stated that “*The Chairperson notes with appreciation that this decision puts an end to the delays in establishing the Court [...] The African Union Commission looks forward to work with the Government of South Sudan to ensure the finalization and signing of the Memorandum of Understanding on the establishment of the Court at the earliest opportunity.*”²⁵⁶

Abraham Diing Akoi²⁵⁷, researcher at the London School of Economics and Social Sciences (LSE), conducted a series of interviews. The results show that: “*The majority of South Sudanese are tired of war, and many I spoke to believe the Hybrid Court will create another ethnic conflict. Everyone knows the SPLA-In Government, SPLA-In Opposition, various militias factions, different ethnic groups and their allied militias have committed different kinds of crimes and abuses. But few believe the court is going to identify the victims and perpetrators. [...] Most South Sudanese societies prefer forgiveness and reconciliation among warring parties over individual punishment. [...] Even if the court is established, people in government and among the grassroots are asking which atrocities the court will address. The ones committed in 2013. The ones committed in 1991. The ones committed by warlords. The ones committed by various ethnic militias. Who will be held accountable and who is going to trial them are pertinent questions? A Dinka, a Nuer, an Equatorian? [...] To a former SPLA soldier I spoke to, the best approach is to let South Sudanese elect a leader who will open a path for transitional justice*

²⁵⁶ A.U. Press Releases, “*Statement by H.E. Mr. Moussa Faki Mahamat, Chairperson of the African Union Commission, on African Union Hybrid Court of South Sudan*”, Addis Ababa, 30 January 2021, available at: <https://au.int/en/pressreleases/20210130/statement-he-mr-moussa-faki-mahamat-chairperson-african-union-commission>

²⁵⁷ Abraham Diing Akoi is a researcher at the LSE Centre for Public Authority and International Development at the Firoz Lalji Institute for Africa. He began his formal education in Kakuma Refugee Camp, Kenya, and graduated from LSE with a master’s in development studies. He remains part of the PfAL network at LSE.

*and, consequently, stability. As far as the civil population is concerned, the current leadership in Juba have lost trust and legitimacy.”*²⁵⁸

The research confirmed a common fear among many South Sudanese: popular opinion sees transitional justice mechanisms as ineffective in a country where the government presides over a broken system, awash with weapons, divided along ethnic lines and lacking legitimacy.

Despite formal stances, human rights groups found no evidence of concrete actions taken, and the AU did not respond to their letter of 14 June. The letter states that the people of South Sudan “*entrusted the AU to ensure that justice is delivered and contributes to ending the culture of impunity [...] The AU’s apparent inaction raises serious questions about the AU’s credibility not only in atrocity prevention in South Sudan, but across the African continent where many are looking to you for justice.*”²⁵⁹ South Sudanese, African, and international organizations “*reiterate that it is incumbent on the AU Commission ... to take immediate action to show that it remains committed to the inherent right of the people of South Sudan to have justice*”²⁶⁰

The difficulty in setting up the HCSS and the mistrust of the South Sudanese people about its effectiveness show that international instruments imposed from above alone cannot be the solution to a civil conflict that continues in different parts of the country. It seems clear that the continued proliferation of arms, the issue of land ownership and extreme poverty are priority issues that must be resolved before embarking on a due process of law for those who have committed war crimes and crimes against humanity.

²⁵⁸ Abraham Diing Akoi, “*The Hybrid Court in South Sudan could be a recipe for further conflict*”, LSE, July 1st 2021, available at: <https://blogs.lse.ac.uk/africaatlse/2021/07/01/hybrid-court-south-sudan-recipe-for-further-conflict-law-ethnic-violence/>

²⁵⁹ Human Rights Watch, “*South Sudan: African Union Disappoints on Justice*”, August 5th, 2021, available at: <https://www.hrw.org/news/2021/08/05/south-sudan-african-union-disappoints-justice>

²⁶⁰ *Idem*.

Conclusion: stable peace remains a difficult goal to achieve

As has been shown in detail in previous chapters, the case of South Sudan could be useful to illustrate the evolution of international power-relations of international community within the African context. The first chapter analysed the *indirect* confrontation between the US and the USSR during the Cold War to achieve the hegemony in the Horn of Africa area. The second chapter looked at the change in US foreign policy during the 1990s, Washington shifting its focus to combating Islamic fundamentalism, the US dropped out of the friendship relation with Sudan by it declaring it a *state- sponsor of terrorism* and favouring the right to self-determination for the people of South Sudan. Due to fight against *Islamist* terrorism the international community imposed heavy sanctions on Sudan at the end of 90s. The third chapter showed the rapid rise of the People's Republic of China, which, taking advantage of US sanctions, became the main trading partner of Sudan and subsequently of South Sudan. The outcome was the rapid rise of the People's Republic of China, which, by exploiting US sanctions, has become a major trading partner of Sudan and later also of South Sudan.

Regarding the role of the African regional community, the civil conflict in Sudan and then South Sudan showed how difficult it was for the regional organisation of Horn of Africa (IGAD) to achieve stable peace due to the deep divisions and opposite interest within the horn. The second chapter observed how one of the political stumbling blocks during the peace process came to an end in the early 1990s when the Marxist-Leninist regime in Ethiopia was removed. The third chapter also showed IGAD's weakness during both the interim period of the CPA and the civil conflict in South Sudan. During the interim period IGAD was not able to fully implement the CPA especially about the definition of clear and precise borders between Sudan and South Sudan, during the South Sudanese civil war IGAD was not able to be internally cohesive in condemning the violence of the conflicting parties and ensuring a lasting peace, furthermore, the official mediator role received by the security council caused a harsh clash with the AU. Senior researcher Redie Bereketeab has no doubts about the role of the international community in the South Sudan conflict: "*It is also clear that IGAD, AU and the*

international community have betrayed them [South Sudanese people]. It was a mistake that the AU and UN left the mediation to IGAD only. Trusting corrupt, tribal and ineffective governments to implement a peace deal is a big mistake. A clear and steadfast mediation, unswerving stand, principled, targeted and serious sanctions would have put an end to the suffering of the people of South Sudan. The absence of enforcement structures, instruments, controls, supervisions and monitoring spawned the collapse of the peace agreement. [...] The warring parties as well as the mediators and the so-called international community are responsible for it. The mediators had an important tool to enforce the signed peace: barring South Sudan from IGAD, imposing sanction, and sanctioning Uganda.”²⁶¹

The case of South Sudan shows the limitations of the International Community. By analysing the civil conflict during the Cold War period, it is possible to observe how the division of states into two opposite blocs prevented a key-role of International Community in achieving peace, relegating the intervention of the United Nations only to small actions to counter humanitarian crises caused by the conflicts but without acting to promote peace and conflict resolution. The situation did not change with the fall of the *Berlin Wall*; if during the previous period the divisions were political, with the end of the Cold War the opposite interests became purely economic. A key role is played by oil extraction and the region's potential for develop, which is characterised by a lack of strategic infrastructure. According to the journalist Austin Bodetti²⁶² “*Given that South Sudan depends on petroleum for 98 percent of its budget, China also enjoys more than enough leverage to bring the East African country into its sphere of influence. The return of peace to South Sudan could yield exceptional profits for its Chinese benefactors. [...] CNPC has benefited from the South Sudanese Civil War in that the long-running conflict*

²⁶¹ Bereketab, Redie. “*The Collapse of IGAD Peace Mediation in the Current South Sudan Civil War: When National Interest Dictates Peace Mediation.*” *Journal of African Foreign Affairs* 4, no. 1/2 (2017): 67–84. Page 83.

²⁶² Austin Bodetti studies the intersection of Islam, culture, and politics in Africa and Asia. He has conducted fieldwork in Bosnia, Indonesia, Iraq, Myanmar, Nicaragua, Oman, South Sudan, Thailand, and Uganda. His writing has appeared in *The Daily Beast*, *USA Today*, *Vox*, and *Wired*.

deterred the state-owned enterprise's competitors from even thinking of touching the market."²⁶³

So, China's role in the UNMISS, as detailed above, showed the limitation of the UN mission failing to ensure a ceasefire and therefore limiting itself to receiving displaced persons from war zones and protecting foreign interests in South Sudan.

Decades of civil wars have resulted in a dramatic proliferation of weapons and the different tribes continue to fight each other to maintain political and therefore economic power over the country's natural resources. In 2020, Amnesty International (AI) conducted a report on the UN weapons embargo. AI visited 12 military camps in South Sudan and reported that site visits and satellite images reveal that several armed forces are violating the arms embargo. Searches reveal the existence of hidden weapons caches. In addition, the use of child soldiers and the illegal concealment and misappropriation of weapons have also been documented. AI noted how the bodyguards of key government generals and opposition troops, who have privileged access to newly acquired weapons, had weapons from Eastern Europe that have not previously been documented in South Sudan. AI alleged that these weapons were imported in violation of the current arms embargo. AI has come into possession of photographs showing that the National Security Service (NSS) has Chinese ammunition, which it most likely obtained illegally. In the September 2018 conflict resolution agreement, the warring parties had agreed to form a joint army by joining enemy troops and to lay down all weapons in independently supervised camps. In none of the 12 military camps Amnesty visited was their evidence of an ongoing disarmament process.²⁶⁴

²⁶³ Austin Bodetti, *How China Came to Dominate South Sudan's Oil*, The Diplomat, February 11, 2019, available at: <https://thediplomat.com/2019/02/how-china-came-to-dominate-south-sudans-oil/>

²⁶⁴ Amnesty International press release, *Il Consiglio di sicurezza dell'ONU deve rafforzare l'embargo sulle armi* (UN Security Council to strengthen Arms embargo), 30 April 2020, London/Lugano. available at: <https://www.amnesty.ch/it/news/2020/sud-sudan-necessario-rafforzare-embargo-onu-sulle-armi>

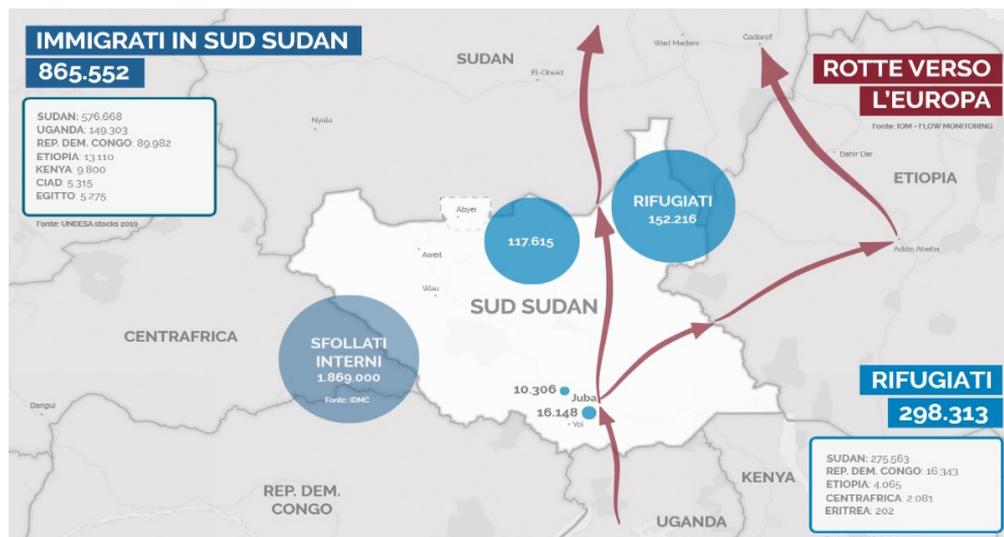


Figure 4²⁶⁵

All these terrible issues brought to the detriment of the South Sudanese people, who since the 1960s have been cyclically forced to flee their lands, making the development of a peaceful and prosperous society impossible. The long conflict between northern and southern Sudan, and then the new civil war that followed the independence of South Sudan (2011), prompted millions of South Sudanese to migrate. Among the countries hosting the largest number of South Sudanese migrants, Uganda and Sudan are followed by other neighbouring states (Ethiopia, Kenya and the Democratic Republic of Congo). In Sudan, South Sudanese live in refugee camps run by the Khartoum government in the White Nile and Kordofan regions on the border between the two states. The Ugandan asylum system, on the contrary, aims to ensure the refugees integration in the country and their economic self-sufficiency. The persistence of a situation of widespread violent clashes periodically forces parts of the population to move within the country. In 2020, the number of displaced people reached almost two million²⁶⁶, a huge number when

²⁶⁵ ISPI and CARITAS Italiana, *SUD SUDAN Cause di migrazione e contesti di origine* (SOUTH SUDAN Causes of migration and contexts of origin), June 2020, available at: <https://inmigration.caritas.it/sites/default/files/2020-06/SudSudan.pdf>

²⁶⁶ *Idem.*

compared to the total population of South Sudan, which in 2019 was about 11 million²⁶⁷.

The reports of the Human Rights Council still in 2021 highlight the terrible conditions in South Sudan and the intervention of UNMISS fails to ensure peace and compliance with peace agreements. The hope for South Sudanese people is that through the hybrid tribunal of South Sudan, all the leaders of the opposing factions involved in the massacres and in the serious and ongoing violations of human rights can be judged, with the aim of renewing the political class and achieving peace between the different ethnic groups in conflict. According to the journalist James Trigg *“the auspices of the South Sudan Hybrid Court, the cases will concern individuals who may still be closely tied to the President, Salva Kiir, or the First Vice-President Riek Machar. Supporters of both men are implicated in the conduct of atrocities, and so the hybrid court must resist becoming a politicised arena. After all, it was a deterioration in relations between both men which precipitated the initial conflict. This could prove extremely limiting. For example, taking pains to avoid disturbing the delicate peace process could result in a court where prosecutions are carried forward only with the consent of all parties. This would likely result in just the most minor offenders being prosecuted, with both leaders intervening to protect their closest lieutenants.”*²⁶⁸

Unfortunately, the enormous amount of weapons in the territory, the interests connected to oil extraction and logistical-financial operations make it extremely difficult to achieve this purpose.

²⁶⁷ Source : <https://www.worldometers.info/world-population/south-sudan-population/>

²⁶⁸ James Trigg, *Hybrid War Crimes Court Promises Justice But Political Rivalry May Impede Pursuit*, global risk insights, March 7, 2021 available at: <https://globalriskinsights.com/2021/03/hybrid-war-crimes-court-promises-justice-but-political-rivalry-may-impede-pursuit/>

Acknowledgement

In 2018 I was doing research for my bachelor thesis on the French-Italian border at Ventimiglia (Im). At that time there was a massive arrival of refugees on the border between Italy and France who remained there in limbo between two states, without much hope of crossing the border. The '*westerners*' on the border are helping the migrants to find food and other basic necessities. On a warm July evening I met a young man, his name was Alfadel from South Sudan, we started talking immediately and we had a strong topic in common: we were both studying political science. I knew nothing about his country of origin but his story and his determination to find a place to live without fearing for his life intrigued me a lot. Shortly after our meeting, he managed to cross the border by makeshift means, avoiding arrest by the Gendarmerie, and reached his goal of reaching the North.

Another person who was fundamental to the writing of my thesis is Al-Fate. He is a refugee who has been living in Italy since 2009. I got to know his story because due to some issues with the Italian justice system he had lost his residence permit and he was willing to get it back now that he had settled his *debt* with the Italian justice system. He is a North Sudanese who fought with the SAF during the 1990s, and was a mechanic with expertise in heavy vehicles. During the civil war he was captured by the SPLA during an ambush. He told me about his imprisonment, he did not suffer violence from his southern brothers who instead explained to him the reasons why the SPLA fought against the SAF. He was released and when he returned to the north of the country he began to support his brothers in South Sudan for this reason he was arrested in Sudan and after a year of imprisonment he escaped to Lybia. I studied his story in detail and together we submitted all the necessary documentation to Rome in order to obtain refugee status. His story showed me how the civil war of the northern Sudanese against the southern Sudanese did not really interest the civilian population, who were forced to fight for one or the other side only because of a geographical origin without sharing the reasons why these two peoples fought each other for so long.

I would like to thank Don Michele Porcelluzzi for introducing me to the CARITAS SAI structure where I did my curricular internship where I met fantastic people who work daily side by side with migrants to help them find a home, a job and obtain all the necessary documents to live in Italy legally. I particularly thank my tutor Pedro Di Iorio and the lawyer Elisabetta Cimoli.

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This master's degree thesis is dedicated to all the people who are fleeing from wars, devastation, climate crises and the exploitation of human by human. As Soviet cosmonaut Yuri Gagarin, the first human in space, wrote: *“From here the Earth is beautiful, without barriers and borders.”*

Bibliography

International organisations resolutions, communications, press release and treaties

United Nation

U. N. General Assembly

UNGA, *Resolutions adopted by the General Assembly at its 43rd session* (A_RES_43_8_E) April 1988.

U.N. Security Council

U.N. Security Council, Resolution 1590 (2005) 5151st meeting, 24 March 2005.

U.N. Security Council Press Release (SC/8249), Security Council Nairobi Meeting Welcomes End of Year Peace Pledge by Parties to Sudan Conflict, Nairobi, November 19th, 2004

U.N.S.C., *Report of the Secretary-General on South Sudan*, 2014/158

U.N.S.C, *Resolution Adopted by the Security Council at its 7754th meeting*, RES/2304 (2016), 12 August 2016, page 3

U.N.S.C., *Security Council Decides against Imposing Arms Embargo on South Sudan, Designating Key Figures for Targeted Sanctions*, 23 December 2016

U.N.S.C., *Resolution 2567 (2021) Adopted by the Security Council*, 12 March 2021, available at: [https://undocs.org/en/S/RES/2567\(2021\)](https://undocs.org/en/S/RES/2567(2021))

U. N. department of Humanitarian Affairs

UN department of Humanitarian Affairs, *Sudan Drought/Insecurity/Pest Infestation* Aug 1986

U. N. Disaster Relief Coordinator

UNDRO Situation Reports 1-6, available at:

<https://reliefweb.int/report/sudan/sudan-droughtinsecuritypest-infestation-aug-1986-undro-situation-reports-1-6>

U. N. Secretary General

Special Representative of the Secretary-General, Press Conference by SRSG Haile Menkerios on the end of the Mission, on 7th June 2011, available at:

https://unmis.unmissions.org/sites/default/files/opening_remarks_-_070711.pdf

U.N.S.G. statement, *Secretary-General's Remarks at Security Council Open Debate on Trends in United Nations Peacekeeping*, NYC, 11 June 2014 available at: <https://www.un.org/sg/en/content/sg/statement/2014-06-11/secretary-generals-remarks-security-council-open-debate-trends>

United Nations Mission in South Sudan (UNMISS)

UNMISS, UN Office of the High Commissioner for Human Rights; *The State of Human Rights in the Protracted Conflict in South Sudan*; Juba/Geneva, January 21st, 2016. Page 13

Human Rights Council

Human Rights Council (HRC/46/53), “*Report of the Commission on Human Rights in South Sudan*”, February 4th, 2021.

U.N. News

UN news, *UN welcomes South Sudan as 193rd Member State*, 14 July 2011 available at: <https://news.un.org/en/story/2011/07/381552>

World Bank

World Bank national accounts data, and OECD National Accounts data files, “GDP per capita (current US\$) - South Sudan”, available at:

<https://data.worldbank.org/indicator>

World Bank *Project Information Document (Pid)* available at:

<https://documents1.worldbank.org/curated/en/239531468095064984/pdf/PID-Print-P144139-06-04-2013-1370387572736.pdf>

Intergovernmental Authority on Development (IGAD)

IGAD press release, Communique of the 12th Summit of Heads of State and Government of Igad, Addis Ababa, Ethiopia, 14th June 2008. Available at:

<https://igad.int/communique/107-communique-of-the-12th-summit-of-heads-of-state-and-government-of-igad>

IGAD, Communiqué of The Extra-Ordinary Meeting of The IGAD Council of Ministers, NYC, U.S. 24th September 2008. Available at:

<https://igad.int/communique/121-communique-of-the-extra-ordinary-meeting-of-the-igad-council-of-ministers>

IGAD press release, E.S. Statement on Chamber of The International Criminal Court, 3rd August 2010. Available at: <https://igad.int/press-release/234-es-statement-on-chamber-of-the-international-criminal-court>

IGAD, Communiqué: IGAD - EU Ministerial Troika Meeting, Brussels, 31st March 2009. Available at: <https://igad.int/communique/141-communique-igad-eu-ministerial-troika-meeting>

IGAD, “*Communique Of The 25th Extra-Ordinary Session Of The IGAD Assembly Of Heads Of State And Government On The Situation In South Sudan*”,

Addis Ababa, 13th March 2014 available at: <https://igad.int/communique/781-communique-of-the-25th-extra-ordinary-session-of-the-igad-assembly-of-heads-of-state-and-government-on-the-situation-in-south-sudan>

IGAD press release, *IGAD Mediators profoundly deplore the escalation of fighting in South Sudan and urge the warring Parties to immediately cease all hostilities*, 15 May 2015, Addis Ababa, Ethiopia. Available at:

<https://igad.int/press-release/1134-igad-mediators-profoundly-deplore-the-escalation-of-fighting-in-south-sudan-and-urge-the-warring-parties-to-immediately-cease-all-hostilities>

IGAD- Press Release, “*For Immediate Release*”, Nouakchott - Mauritania, June 30th, 2018.

IGAD, *Revitalized Agreement on the Resolution of Conflict in South Sudan or R-ARCSS*, Addis Ababa Ethiopia, September 12nd 2018. Available at:

<https://docs.pca-cpa.org/2016/02/South-Sudan-Peace-Agreement-September-2018.pdf>

IGAD, *Rome Declaration on The Peace Process in South Sudan*, Rome Italy.

Available at: <https://igad.int/programs/115-south-sudan-office/2330-rome-declaration-on-the-peace-process-in-south-sudan>

African Union AU

African Union Press Release – *African Union Welcomes South Sudan as the 54th Member State of the Union*, Addis Ababa, 27 July 2011. Available at

https://au.int/sites/default/files/pressreleases/24437-pr-pr_sudan_27_07_11_2_rev.doc.pdf

The Peace and Security Council of the African Union (AU PSC), *411th meeting of the Peace and Security Council at the level of Heads of State and Government on the situation in South Sudan*, December 30th, 2013. Available at:

<https://www.peaceau.org/uploads/psc-com-411-south-sudan-30-12-2013.pdf>

The Peace and Security Council of the African Union (AU PSC), *Communiqué of the 720th meeting of the PSC, at the ministerial level, on the situation in South Sudan*, September 20th, 2017.

AU Commission of Inquiry on South Sudan (AUCISS), “*Final Report of The African Union Commission of Inquiry on South Sudan - Executive Summary*”, Addis-Ababa, 15 October 2014, page 11

A.U. Press Releases, *Statement by H.E. Mr. Moussa Faki Mahamat, Chairperson of the African Union Commission, on African Union Hybrid Court of South*

Sudan, Addis Ababa, 30 January 2021 , available at:

<https://au.int/en/pressreleases/20210130/statement-he-mr-moussa-faki-mahamat-chairperson-african-union-commission>

Comprehensive Peace Agreement (CPA)

Sudan Peace Act, October 21, 2002. Public Law 107-245, 107th Congress, available at: <https://www.congress.gov/107/plaws/publ245/PLAW-107publ245.pdf>

Machakos Protocol

Declassified sources

United States Central, I. A. *The president's intelligence checklist [communist China-north Vietnam; Bolivia; Sudan; Congo; includes notes]* (1964); page 5

United States Central, I. A. *The president's intelligence checklist [Bolivia; soviet anniversary; Sino-soviet relations; Sudan; Japan; Congo; includes photographs and notes]*. 1964 page 6.

United States Central, I. A. *The president's daily brief [south Vietnam; Vietnam; Singapore; Indonesia; Dominican Republic; Greece; India Pakistan; Colombia; Peru; Sudan; berlin; includes maps]*. 1965.

United States National Security Council Special, *Memorandum for president: Soviet and Cuban roles in Africa*. 1978.

United States. *National Security Council. Staff. [Horn of Africa; includes attachment]*. 1980.

Mo, Archive (TNA), Prime Ministerial Private Office files, *Sudan: FCO briefing for MT ("President Nimeiri of the Sudan") [Ethiopia/Eritrea; the President's health/observance of Ramadan]* 1980 Jul 14 [declassified Aug 2013].

United States National Security Council Special, Coordination Committee. *Horn of Africa*. 1978.

Sudan: FCO briefing for MT ("Call by President Nimeiri: Aid") [*supplementary brief on aid, with general briefing attached*] [declassified Aug 2013], available at www.margarethatcher.org/

Books

Metz, Helen Chapin, and Library of Congress. Federal Research Division. "Sudan: A Country Study". Fourth ed. 1992. Print. Area Handbook Ser. Pages 21-22

Johnson, Douglas H. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Expanded 3rd Edition). Woodbridge, Suffolk; Rochester, NY: Boydell & Brewer, 2016. Pages 25-26

LeRiche, Matthew, and Matthew Arnold. *South Sudan: From Revolution to Independence*. London: Hurst, 2012.

Evgenij Maksimovič Primakov, *Russia and the Arabs: Behind the Scenes in the Middle East from the Cold War to the Present*, Hachette UK, 2009. Pages 77-78
SPLA/M, *Manifesto*, 31 July 1983.

Academic Publications

Laki, Sam L. "Self-Determination: A Solution to the Sudan Problem." *Northeast African Studies, New Series*, 3, no. 2 (1996): 7–20.

Eric Patterson (editorial direction), *Religion and Conflict Case Study Series; Sudan: Race and Religion in Civil War*, Berkley Center for Religion, Peace, and World Affairs, 2013,

Mayotte, Judy. *Civil War in Sudan: The Paradox of Human Rights and National Sovereignty*, *Journal of International Affairs*, vol. 47, no. 2, 1994, pp. 497–524.

El-Affendi, Abdelwahab. "The Impasse in the IGAD Peace Process for Sudan: The Limits of Regional Peacemaking?" *African Affairs*, vol. 100, no. 401, 2001, 581–99. page 583

Dor Malual Ayom, *Conflict resolution as a learning process: the Sudanese People's Liberation Movement/Army 1983-2005*, King's College London (University of London), 2017. Page 164

Rolandsen, Øystein H. "A Quick Fix? A Retrospective Analysis of the Sudan Comprehensive Peace Agreement." *Review of African Political Economy*, vol. 38, no. 130, 2011: 551–64.

Barltrop R., 2008, *The Negotiation of Security Issues in Sudan's Comprehensive Peace Agreement*, Centre for Humanitarian Dialogue, Negotiating Disarmament, Country Study, Number 2, March 2008, Geneva, Switzerland,

Sheeran, Scott P. "International Law, Peace Agreements and Self-Determination: The Case of The Sudan." *The International and Comparative Law Quarterly*, vol. 60, no. 2, 2011, pp. 423-458.

Hutton, Lauren, "Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War", Clingendael Institute, 2014

Large, Daniel. "China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War." *The China Quarterly*, no. 199, 2009, pp. 610-626.

Natsios, Andrew S. "China in Sudan: The Challenge of Non-Interference in a Failed State." *Georgetown Journal of International Affairs* Vol. 13, No. 2 (Summer/Fall 2012), pp. 61-67.

Dr. Christopher Zambakari, "Nation and State Building in South Sudan: Violence, Development, and Democracy", *Journal: Business, Peace and Sustainable Development*: 2014

International Crisis Group, *South Sudan: A Civil War by Any Other Name*, Africa Report N°217, April 10, 2014.

Redie Bereketeab, *The Collapse of IGAD Peace Mediation in the Current South Sudan Civil War: When National Interest Dictates Peace Mediation*, *Journal of African Foreign Affairs*, Vol. 4, No. 1/2 (June/December 2017).

Ndubuisi Christian Ani, *Clarifying the roles of the African Union and sub-regional organizations in peace and security*, *Journal of African Union Studies*, Vol. 7, No. 3 (December 2018).

Rudincová, Kateřina. *African Solution to African Problems*, Politeja, vol. 56, 2018, pp. 169-192

Nganje, Fritz, *Emerging Powers and the Responsibility to Prevent Mass Atrocities: lesson from South Sudan*, Sudd Institute, 2014.

Other publication

The Observatory of Economic Complexity (OEC), available at:

<https://oec.world/en/profile/country/ssd>

Northeast Africa 1871 CE, available at <https://www.timemaps.com/history/nubia-1871ad/>

In Alden Young, *Transforming Sudan: Decolonization, Economic Development, and State Formation* (Cambridge University Press, 2017), 29. available at:

<https://www.geographyofsources.com/borders.html>

The information about SRRA is available at:

<https://www.enonline.net/fex/6/agencyprofilesrra>

Lam Akol, *Operation Lifeline Sudan: war, peace and relief in southern Sudan*, Conciliation Resources, 30 Jun 2005, available at:

<https://reliefweb.int/report/sudan/operation-lifeline-sudan-war-peace-and-relief-southern%C2%A0sudan>

Bush, George W. *Address to the Joint Session of the 107th Congress*, United States Capitol, Washington D.C. September 20, 2001

President of the Republic of Sudan since 16 October 1993 at time of warrants.

Arrest warrants: 4 March 2009 and 12 July 2010. <https://www.icc-cpi.int/darfur/albashir>

Letter from Government of Sudan to SRSJ Jan Pronk quoted on Weblog nr 37 November 4, 2006, online at <http://www.janpronk.nl/weblog/english/november-2006.html#b287>

Meeting between senior UNMIS staff and US Embassy officials in Khartoum on 29 June 2008 as outlined in diplomatic cable released on Wikileaks. Online at <http://dazzlepod.com/cable/08KHARTOUM962/> in Hutton, Lauren, “*Prolonging*

the Agony of UNMISS: The Implementation Challenges of a New Mandate during a Civil War”, Clingendael Institute, 2014, page 9

The Carter Center, *Observing the 2011 Referendum on the Self-Determination of Southern Sudan*, available at:

https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/FinalReport-Sudan-2011-Self-Determination-Referendum.pdf

Al Jazeera, *South Sudan's Machar speaks to Al Jazeera*, 19 December 2013.

Available at <https://www.aljazeera.com/features/2013/12/19/south-sudans-machar-speaks-to-al-jazeera>

Al Jazeera, *South Sudan gripped by power struggle*, 28 Jul 2013. available at:

<https://www.aljazeera.com/news/2013/7/28/south-sudan-gripped-by-power-struggle>

Sudan Tribune, *“Bashir and Kiir commit themselves to implement signed agreements”*, 28 January 2013. Available at:

<https://reliefweb.int/report/sudan/bashir-and-kiir-commit-themselves-implement-signed-agreements>

Martina Lucia Lanza, *“Dossier: Il Sistema dell’Unione Africana di protezione e promozione dei diritti umani”*, UNIPD-Centro Diritti Umani, available at:

<https://unipd-centrodirittiumani.it/it/schede/LArchitettura-di-pace-e-sicurezza-dellUA/354>

BBC, *South Sudan President Salva Kiir hits out at UN*, 21 January 2014.

Available at: <https://www.bbc.com/news/world-africa-25826598>

Colum Lynch *U.N. Peacekeepers to Protect China's Oil Interests in South Sudan*,

Foreign Policy. Available at: [https://foreignpolicy.com/2014/06/16/u-n-](https://foreignpolicy.com/2014/06/16/u-n-peacekeepers-to-protect-chinas-oil-interests-in-south-sudan/)

[peacekeepers-to-protect-chinas-oil-interests-in-south-sudan/](https://foreignpolicy.com/2014/06/16/u-n-peacekeepers-to-protect-chinas-oil-interests-in-south-sudan/)

Valentina Giulia Milani, *Sud Sudan: conflitti intercomunitari, un’analisi*, Africa

Rivista, 30 August 2021 available at: [https://www.africarivista.it/sud-sudan-](https://www.africarivista.it/sud-sudan-conflitti-intercomunitari-unanalisi/190201/)

[conflitti-intercomunitari-unanalisi/190201/](https://www.africarivista.it/sud-sudan-conflitti-intercomunitari-unanalisi/190201/)

La Stampa, *Papa Francesco bacia i piedi ai leader del Sud Sudan: basta guerre*,

April 12nd 2019, available at: [https://www.lastampa.it/vatican-](https://www.lastampa.it/vatican-insider/it/2019/04/12/news/papa-francesco-bacia-i-piedi-ai-leader-del-sud-sudan-basta-guerre-1.33694577)

[insider/it/2019/04/12/news/papa-francesco-bacia-i-piedi-ai-leader-del-sud-sudan-basta-guerre-1.33694577](https://www.lastampa.it/vatican-insider/it/2019/04/12/news/papa-francesco-bacia-i-piedi-ai-leader-del-sud-sudan-basta-guerre-1.33694577)

Comunità Sant'Egidio, *South Sudan: All political parties sign a peace agreement in Sant'Egidio*, 13rd January 2020 - Rome, Italy. Available at:

<https://www.santegidio.org/pageID/30284/langID/en/itemID/34068/South-Sudan-All-political-parties-sign-a-peace-agreement-in-Sant-Egidio.html>

Owiso, *The proposed hybrid court for South Sudan*, African Journal on Conflict Resolution AJCR 2018/2, available at: <https://www.accord.org.za/ajcr-issues/the-proposed-hybrid-court-for-south-sudan/>

Salva Kiir and Riek Machar, *South Sudan Needs Truth, Not Trials*, New York Times, June 7, 2016, available at:

<https://www.nytimes.com/2016/06/08/opinion/south-sudan-needs-truth-not-trials.html>

Abraham Diing Akoi, “*The Hybrid Court in South Sudan could be a recipe for further conflict*”, LSE, July 1st 2021, available at:

<https://blogs.lse.ac.uk/africaatlse/2021/07/01/hybrid-court-south-sudan-recipe-for-further-conflict-law-ethnic-violence/>

Human Rights Watch, “*South Sudan: African Union Disappoints on Justice*”, August 5th, 2021, available at: <https://www.hrw.org/news/2021/08/05/south-sudan-african-union-disappoints-justice>

Austin Bodetti, *How China Came to Dominate South Sudan's Oil*, The Diplomat, February 11, 2019, available at: <https://thediplomat.com/2019/02/how-china-came-to-dominate-south-sudans-oil/>

Amnesty International press release, *Il Consiglio di sicurezza dell'ONU deve rafforzare l'embargo sulle armi* (UN Security Council to strengthen arms embargo), 30 April 2020, London/Lugano. available at:

<https://www.amnesty.ch/it/news/2020/sud-sudan-necessario-rafforzare-lembargo-onu-sulle-armi>

¹ ISPI and CARITAS Italiana, *SUD SUDAN Cause di migrazione e contesti di origine* (SOUTH SUDAN Causes of migration and contexts of origin), June 2020, available at: <https://inmigration.caritas.it/sites/default/files/2020-06/SudSudan.pdf>

South Sudan Population, available at: <https://www.worldometers.info/world-population/south-sudan-population/>

James Trigg, *Hybrid War Crimes Court Promises Justice But Political Rivalry May Impede Pursuit*, global risk insights, March 7, 2021 available at:
<https://globalriskinsights.com/2021/03/hybrid-war-crimes-court-promises-justice-but-political-rivalry-may-impede-pursuit/>