



Stabilisation Unit

**Elite Bargains and Political Deals Project:
South Sudan Case Study**

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Background to Elite Bargains and Political Deals Project

This case study is one of a series commissioned to support the Stabilisation Unit's (SU) development of an evidence base relating to elite bargains and political deals. The project explores how national and international interventions have and have not been effective in fostering and sustaining political deals and elite bargains; and whether or not these political deals and elite bargains have helped reduce violence, increased local, regional and national stability and contributed to the strengthening of the relevant political settlement. Drawing on the case studies, the SU has developed a series of summary papers that bring together the project's key findings and will underpin the revision of the existing 'UK Approach to Stabilisation' (2014) paper. The project also contributes to the SU's growing engagement and expertise in this area and provides a comprehensive analytical resource for those inside and outside government.



Executive Summary

South Sudan provides a case study of two contrasting peace agreements: the 2005 Comprehensive Peace Agreement (CPA) and the 2006 Juba Declaration. The CPA had significant international support and, while many hoped that it would bring stability, it was in effect implemented as an elite bargain. In contrast, the Juba Declaration was a more explicit elite bargain that failed to be transformed into a lasting, stable political settlement partly because of a lack of international support.

The nature of elite bargains in (South) Sudan

While the CPA promised political liberation, for many South Sudanese it resulted in political exclusion: it focused the government on maintaining international favour, which left many South Sudanese feeling disenfranchised and insecure. The 2006 Juba Declaration was a more explicit elite bargain between the Sudan People's Liberation Army (SPLA) and the Southern Sudan Defense Force (SSDF), the SPLA's main armed opposition in the South. While the Juba Declaration alleviated demands for the immediate use of armed violence, international perceptions that it was illegitimate prevented the UN and Troika (the USA, UK and Norwegian governments) investing in transforming this bargain into a stable political settlement or better integrating it with CPA provisions. This laid the foundations for the conflict that escalated in South Sudan in December 2013.

The CPA was signed by Government of Sudan (GoS) and the SPLA to end the conflict that had taken place between the two parties since 1983. The Troika and East African political leaders invested significant political capital and economic resources to put pressure on the parties to sign the CPA, a process that built on over a decade's commitment to a peace process by the UN, Troika and others. The CPA text went beyond a cessation of hostilities, with provisions that included a commitment to a referendum in 2011 on Southern independence, elections, and new government and security arrangements. In its implementation, however, the CPA was effectively an elite bargain between the politico-military leadership in GoS and the SPLA, albeit one with international backing.

Even at the time of signing, the CPA did not reflect the reality of the political and military situation in South Sudan, and therefore alienated soldiers and civilians who had not supported the SPLA during the previous two decades of war. For instance, although the SSDF was the largest armed force in South Sudan in 2005, it was explicitly excluded from the CPA negotiations and was not mentioned by name once in the CPA document. The leaders of the SSDF had fought for Southern independence since the early 1980s, but since the 1990s had been funded and reorganised by the GoS. The US and UK's antagonistic relationship with the GoS in the 1990s resulted in them viewing the SSDF as being without legitimacy. However, the SSDF were not merely proxies of the GoS and it was unclear that the SSDF would comply with the commitments the GoS had made on their behalf in the CPA. Crucially, the SSDF had support across South Sudan, especially among communities that had experienced SPLA predation during the war. Therefore, while the Juba Declaration was effectively an explicit elite bargain negotiated in three days with almost no international support, it did at least initially avert armed conflict between the SPLA and SSDF.

For nearly eight years, the combination of the Juba Declaration and the CPA provided some reduction in armed violence and a general cessation of hostilities between SPLA, the GoS and the SSDF. This truce lasted long enough for South Sudan to gain its independence in July 2011. However, these elite bargains failed to bring long-term stability, and a national, protracted armed conflict has spread across South Sudan since December 2013, causing one of the world's largest current humanitarian emergencies.



External interventions and failures to intervene

On several occasions, the international community missed opportunities to bring longer-term peace. First, the international commitment to the CPA forced international actors to comply with the CPA's framework and to support its signatories. For the Troika and others, not returning to war before a referendum on Southern independence became the primary litmus test of GoS and the SPLA's commitment to the CPA. Therefore, they overlooked emerging authoritarian practices, such as unfair actions during the 2010 elections and the growing Southern 'kleptocracy'. In addition, Chinese and other Asian investors in the oil industry did not question the legitimacy of the Government of South Sudan (GoSS), and with this unconditional support the GoSS had little incentive to listen to their own citizens or to address their grievances.

Second, the framework outlined by the CPA was out of step with South Sudanese realities and alienated voices of other, non-SPLA South Sudanese. While the Juba Declaration initially brought the SSDF and its supporters hope that they would have adequate representation in the GoSS, the way in which the CPA was implemented, including the elections and disarmament campaigns, and the extent to which the Troika and UN did not support the implementation of the Juba Declaration, left them with no certainty of representation or protection in the new GoSS. They felt further disenfranchised by the Troika and the UN's continued and unquestioning support for the GoSS.

Third, the Juba Declaration had the potential to be more 'sticky' than the CPA, as the signatories had the power to implement their commitments, and the agreement more honestly reflected existing configurations of power in South Sudan. However, this did not happen, both because it was an elite bargain secured through the division of oil revenues and because international actors, who had not invested in this peace agreement, saw no political incentive for turning it into a more stable political settlement.

Finally, at the heart of the CPA were contradictory notions of political legitimacy. The CPA empowered the Troika and regional actors to confer power on the SPLA to govern South Sudan, which effectively removed power from the South Sudanese citizenry to determine the legitimacy of the powers that would govern them. The detailed CPA text included the promise of Southern self-determination, democracy and good governance that collectively promised political liberation for South Sudanese. In reality, however, the heavy international involvement in the negotiations and implementation of the CPA meant that the political and military elites participating in these agreements focused on international opinion as much as South Sudanese opinion. As a result, many South Sudanese were excluded and angered, and were pushed towards armed, violent opposition instead.



I: The Comprehensive Peace Agreement (2005)

A context of armed violence

In the 1940s, when it became apparent that Sudan's independence was imminent, Southerners became increasingly concerned about their lack of political and economic security. From the 1960s, the Anya-Nya I rebels fought for Southern autonomy until, in 1972, the Government of Sudan (GoS) and the Southern armed rebellion (Anya-Nya I) signed the Addis Ababa Peace Agreement that paused the armed conflict between these parties. The 1972 peace agreement created the Southern Regional Government, giving some autonomy to the Southern region. With the new Regional Government, Southerners hoped they would gain economic and political liberation.¹

Although the Southern Regional Government brought new energy to development of the South, in reality many of the new development projects within the country as a whole still promoted development for northern Sudan and Egypt at the cost of Southerners. For example, John Garang (later leader of the SPLA rebellion from 1983) wrote his doctoral thesis on the controversial Jonglei Canal project that would have drained the Southern swamps in order to increase water flow downstream in northern Sudan and Egypt.² In addition, after Chevron discovered oil in Southern Sudan in 1980, GoS redrew administrative boundaries to take the oilfields out of the control of the Southern Regional Government.

In 1983, President Nimeiri further weakened the Southern Regional Government by exploiting Equatorian concerns that this Regional Government was Dinka dominated. Nimeiri re-divided the South into the three provinces of Greater Bahr el Ghazal, Greater Upper Nile and the Greater Equatorias. This re-division not only interrupted north-South relations but also had lasting implications for Equatorian-Dinka relations.³

Therefore, by the late 1970s, GoS had abrogated on many of its commitments under the 1972 Addis Ababa Agreement to the extent that South Sudanese were actively debating how to respond and whether the peace agreement still held. In response, in the late 1970s, Anya-Nya II formed as an armed rebellion against GoS. Their principle political demand continued to be autonomy for the South. Although they managed to negotiate a safe haven in Ethiopia, there was only tentative regional support, not least from the Ethiopia government that was primarily concerned with Eritrea's requests for independence and did not want to support a movement for separation in a neighbouring country.

In 1983, this initial armed Southern rebellion was overtaken by the formation of the Sudan People's Liberation Army (the SPLA). The SPLA movement started when, on 16th May 1983 in Bor, Kerubino Kuanyin Bol revolted from the Sudan Armed Forces (SAF) along with his 105th Battalion. At the time, John Garang, himself from Bor, was a senior SAF general posted at SAF's headquarters in Khartoum. He was sent by President Nimeiri to solve the problem of Kerubino's mutiny, but instead joined the revolt. They gathered in Ethiopia and were joined by others who defected from the SAF. Garang became the leader of this nascent SPLA.

¹ Thomas, E. (2015) *South Sudan: A Slow Liberation*. London: Zed Books.

² Garang, John (1981) *Identifying, Selecting and Implementing Rural Development Strategies for Sudan*, PhD thesis, Iowa State University.

³ Willems, R. and Deng, D. (2015) 'Justice and conflict in South Sudan: Observations from a pilot study', <<http://www.cmi.no/file/3253-Justice-and-Conflict-in-South-Sudan---Pilot-Survey---Briefing-Paper.pdf>> accessed 15 May 2016.



Garang's core justification for the SPLA's rebellion was not the demand for Southern autonomy, but based on a complaint that development was behind throughout the peripheries of Sudan. The SPLA's manifesto evoked Marxist analysis, and was heavily influenced by Dar es Salaam theorists and dependency theory.⁴ For example, an extract from the first SPLA/M manifesto read -

"The so-called 'Problem of Southern Sudan' is really a general problem in the Sudan. It is generally a 'problem of Backward Areas' in the whole country that is particularized and exacerbated in the South by successive oppressive minority clique regimes in Khartoum. In fact, the problem has its origins in the spread of capitalism and colonialism towards the end of the last century..."⁵

Garang's formulation of the problem as a national, Sudanese problem meant that the SPLA war was not framed as a fight for Southern autonomy but as a fight for regime change in Khartoum. This was a clear ideological change from the Anya-Nya II forces and much Southern popular opinion.

Ethiopia's support was crucial for the viability of the nascent SPLA. Unlike Anya-Nya II, John Garang's emphasis on Sudan's unity made it easier for Ethiopia to pledge its support, and the use of Marxist ideas resonated with the communist government of Ethiopia at the time. The SPLA also received significant military support from the Eastern Bloc and Libya in the context of the ongoing Cold War, and from President Museveni in Uganda.⁶ Garang and Museveni were both graduates of the University of Dar es Salaam and had sympathetic ideological perspectives. There was also a deep antagonism between Museveni's Uganda and the Sudan, giving Garang and Museveni a common enemy.

Therefore, from its earliest days, the SPLA's power was intimately connected to its regional relationships, which brought with it military might and a degree of legitimacy. Therefore, the SPLA was never solely dependent on South Sudanese people for its legitimacy and claims to authority. This reshaped the relationship the SPLA had with Southern Sudanese and often allowed the SPLA to have a predatory relationship with the communities it controlled.

The SPLA's ability to quickly become the gatekeeper to the international community for the armed opposition in Sudan alienated the Anya-Nya II forces. Although some of these forces joined the SPLA, many Anya-Nya II forces refused to join the SPLA because of the ideological division over Southern autonomy. These remaining Anya-Nya II forces were left in an ambiguous position. In May 1984, at the encouragement of the Ethiopian regimes, Garang turned on the Anya-Nya II movement and killed their leader, Gai Tut,⁷ which led to a lasting rupture and deep distrust between these different armed forces of the South. Paulino Matip took over from Gai Tut as the leader of the Anyanya II forces and returned to his homelands as a base for his alternative Southern armed rebellion against Khartoum. Importantly, his homelands amongst the Bul Nuer were in close proximity to the Unity State oilfields, which meant that his opposition to the SPLA would have political and economic significance.

Over the next two decades, battles took place across many regions of South Sudan and also in the Blue Nile and Nuba Mountains regions of northern Sudan. Lethal, armed violence took place in rural areas, as well as large, bloody campaigns for urban settlements. Some of the worst fighting was not directly between the SPLA and GoS but between these divided, Southern armed forces. Anti-SPLA forces included the Anya-Nya II but also other community defense forces who opposed the predatory nature of the SPLA.

⁴ Thomas, *South Sudan*.

⁵ SPLA/M Manifesto 1983.

⁶ Young, J. (2012) *The Fate of Sudan: The Origins and Consequences of a Flawed Peace Process*, London: Zed Books, p.49.

⁷ Young, *The Fate of Sudan*, p.48.



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Both the SPLA and GoS made use of proxy forces to support their own war efforts, which involved the warring parties arming young men over whom they had little direct and lasting control. For example, GoS armed the northern pastoralists to raid into Dinka areas in Bahr el Ghazal, and in response, the SPLA in the area, under Salva Kiir's command, armed cattle herders who then became *titweng* (an armed, cattle guard).⁸

By 1989, the SPLA had achieved impressive military victories over GoS and controlled two-thirds of the South.⁹ However, none of the warring parties had convincing military and political supremacy over all of South Sudan at any point in the war.

The fall of the Soviet Union and the linked fall of Mengistu Haile Mariam's Ethiopian regime in 1991 had dramatic repercussions for the SPLA. The new regime in Ethiopia expelled the SPLA from its territories, which meant that the SPLA had to appeal to a new global configuration of powers to maintain its international support. The uncertainty and weakness of the SPLA at this time also created internal tensions. In 1991, the SPLA experienced its largest schism when Dr Riek Machar Teny (Nuer from Unity State – to the south of Matip's homeland), Dr Lam Akol (Shilluk) and Gordon Kong Chol rebelled against Garang's leadership of the SPLA. They justified their revolt based on accusations of Garang's dictatorial leadership, and Machar also highlighted that the SPLA under Garang had committed widespread human rights abuses and recruited large numbers of child soldiers. Riek's justification for rebellion played into the international post-cold war concern with good governance and upholding basic standards of human rights and humanitarian law, and his rhetoric also made ethnic claims about the way that power was configured under the SPLA.

The divisions between these elites quickly became ethnicised as young men were armed to raid against the other faction's home communities. Both Garang and Riek used an ethnic narrative and targeted ethnic killings as a means to make ethnic political identities and demand mobilisation along ethnic lines.

II: International Investment in Peace and the SPLA

Before the end of the 1980s, international intervention in the SPLA-GoS war had started through international funding of humanitarian relief. After the famines of the 1980s in Sudan, April 1989 brought the advent of Operation Lifeline Sudan (OLS) – the large, UN-led, international relief effort in Sudan. OLS continued until the 2005 signing of the CPA.

In the early years of OLS there was no written agreement between the warring parties and the UN. However, OLS provided an opportunity for the SPLA High Command to have a new, direct conversation with international actors. The UN needed to work with the SPLA High Commander to secure access in order to deliver relief. As Ethiopia refused to act as a relief corridor to South Sudan, Lokichoggio (Kenya) became the main relief base for operations into SPLA-controlled areas. The SPLA High Command started new conversations with the UN, the Kenyan government and governments such as the UK and USA. Yet, at this time, the UN was explicitly aware that agreements with the SPLA/M could bestow legitimacy on this non-state actor and so the UN tempered their relations with the SPLA/M (Duffield et al 1996: 37).

⁸ Pendle, N. (2015) "‘They are now Community Police’: Negotiating the Boundaries and Nature of the State in South Sudan through the Identity of Militarized Cattle Keepers", *International Journal of Minority and Group Rights* 22: 410 – 434.

⁹ Prunier, G. and Gisselquist, R. (2003) 'The Sudan: A Successfully Failed State' in Rotberg, R.I. (ed.) *State Failure and State Weakness in a Time of Terror*, Washington DC: Brookings Institute.



In these early years, there was also an assumption that the relief effort was part of a broader process to build peace, not least because the UN kept demanding ceasefires to facilitate the delivery of aid. In May 1989, Garang agreed to a one-month ceasefire, which created the climate for the first GoS-SPLA peace talks in June 1989. Although these talks ended when there was a coup d'état in Sudan, they highlighted the political nature of aid and its ability to be used to force ceasefires and negotiations.

The end of the Cold War had direct implications for international involvement in the GoS-SPLA wars. The early 1990s were a critical historical moment of changing notions of sovereignty, intervention, and engagement with non-state actors. The UN had a new confidence in its mandate to bring global peace, justice and good governance, and OLS became a test case for how the UN could deal with a non-state armed group.¹⁰

By 1992, OLS had also increasingly become an area-specific programme, operating differently in the South and the North.¹¹ This furthered Sudanese concerns that OLS would entrench Southern ideas about their separate identity upon which their calls for autonomy were based. Plus, in the early 1990s, the UN even worked with the SPLA on reforming its internal structures. In the Southern Sector, UNICEF's Ground Rules stipulated that they would try to broaden civil structures. After the 1991 split, the SPLA also became aware of the need for new mechanisms to resolve disagreements internally, and OLS became intimately entangled with remaking the governance structures of the SPLA. The 1994 SPLA convention, which broadened the civil structures associated with the SPLA, made them a more legitimate partner for international actors to work with.¹² OLS's willingness to work with the SPLA High Command also strengthened the central control of the SPLA over its commanders and forces in the field.

For the USA and the UK, Sudan's support of Iraq in the Gulf War significantly shifted their alliances from the GoS to the SPLA. GoS started to fear direct, US military intervention (as had happened in Somalia)¹³ and became increasingly weary of the UN at this time, fearing that their relief operations were just a tool for the USA and its allies to build the legitimacy of the SPLA.

In the context of OLS, new attempts to broker peace started. A series of attempts to broker peace between the SPLA and the GoS had taken place during the 1980s, but none had been successful. From 1993, IGADD (that transformed into IGAD in 1996) started to play a role in the peace negotiations. GoS accepted the role of IGADD in the negotiations partly as Khartoum believed they were enjoying improved relations with the East African region after the fall of the Ethiopian regime.¹⁴ In IGADD, the Ethiopian and Eritrean sympathies with Khartoum looked as if they could balance Kenya and Uganda's sympathy with the SPLA. At the time, GoS also hoped that IGADD might dilute US pressure in the peace negotiations.¹⁵

From 1993, Kenya played a major role in the negotiations. President Moi was unsettled by domestic politics and a prominent international role in brokering peace in Sudan was useful to cement his international legitimacy. Over the next decade of peace negotiations, Kenya was often framed as the most neutral actor and best placed to broker peace. The Troika supported politically and financially, with little question, this role for Kenya, as well as the dominance of IGAD in the negotiations. Yet, the

¹⁰ Karim, Ataul, Duffield, Mark, Jaspars, Susanne, Benini, Aldo, Macrae, Joanna, Bradbury, Mark, Johnson, Douglas, Larbi, George, Hendrie, Barbara (1996), *Operation Lifeline Sudan: A Review* (Geneva: UN).

¹¹ Duffield et al, *Operation Lifeline Sudan*, p.20.

¹² Johnson, D. (2011) *The Root Causes of Sudan's Civil Wars*. Rev. edition. Woodbridge, UK: James Currey; Mamphilly, Z. (2007) *Stationary Bandits: Understanding Rebel Governance*, PhD thesis, University of California (Los Angeles), p.110.

¹³ Young, *The Fate of Sudan*, p.122.

¹⁴ Young, *The Fate of Sudan*, p.83.

¹⁵ Young, *The Fate of Sudan*, p.84.



neutrality of these actors was never convincing. For example, after the signing of the CPA, many Kenyan politicians were explicit in their pro-secessionist stance and the Kenyan government would go on to have arms deals with GOSS after the CPA. In addition, the regional powers of IGAD had strong political and economic interests in Sudan.

The first significant achievement in the peace process was the 1994 Declaration of Principles (DoP) that stipulated the right to Southern self-determination through a referendum and, as an alternative, secular democracy within a unified Sudan. However, GoS refused to sign the DoP at this stage on account of the fact that the concessions that were being demanded seemed too large at a time that the SPLA was militarily weak.

In 1995, the USA became increasingly active in supporting 'frontline' states that had an antagonistic relationship with Khartoum. The SPLA grew in strength on the battlefield and the GoS became increasingly internationally isolated and desperate to access the oil revenue from Southern oilfields. In this context, GoS initiated the Khartoum Peace Agreement which was signed in April 1997 between GoS and non-SPLA Southern, armed forces. This included the remnant Anya-Nya II forces under Paulino Matip, Riek's forces and other Equatorian groups. By signing this agreement, these forces were brought together under the umbrella of the South Sudan Defense Force (SSDF), which the GoS then funded to fight the SPLA and clear the Southern oil fields.¹⁶

As the SSDF was formed in a context of growing anti-GoS sentiment in the USA, the USA saw the SSDF as illegitimate mercenaries of GoS. However, the SSDF remained consistent in their demand for Southern autonomy in contrast to the SPLA. The Khartoum Agreement was an initial (albeit weak) commitment from GoS towards Southern self-determination, and Southerners almost certainly preferred this commitment to self-determination than to the vision of a new, united Sudan as was still being advocated by Garang's SPLA.¹⁷

The SSDF was not a coherent organisation, and was comprised of individual commanders who were often warring amongst themselves and were being directly supported by GoS.¹⁸ However, the SSDF and its support from Khartoum was a threat to the SPLA's southern supremacy and made it increasingly unlikely the SPLA could control Southern Sudan through military victory.

In the context of growing international pressure, GoS also finally, reluctantly agreed to the DoP as a non-binding document in July 1997.¹⁹

However, the USA and UK continued to grow in their explicit, anti-GoS stance and justified this based on GoS's association with certain Islamic groups. The USA put growing pressure on Sudan, and US support of the SPLA was part of this pattern. In November 1997, President Clinton signed an executive order imposing economic and trade sanctions on the Sudan government, and in August 1998, the USA directly bombed a chemical plant in Khartoum. The British government provided the USA with strong political backing for these actions. In October 1998, Secretary of State Madeline Albright made it explicit that she favoured regime change in Khartoum, and in November 1999, Clinton signed an order allowing the USA to directly support the SPLA. The GoS feared that if the USA endlessly supplied the SPLA, Sudan would end up in a similar situation to Somalia.

¹⁶ Johnson, *The Root Causes*; Young, *The Fate of Sudan*, pp. 56-57.

¹⁷ Nyaba, Peter Adwok. *Politics of Liberation in South Sudan*. Kampala: Fountain Publishers, 1997.

¹⁸ Johnson, *The Root Causes*; Young, John (2007) *The White Army: An Introduction and Overview*, Small Arms Survey, Geneva. < <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-05-White-Army.pdf> > accessed 17th February 2016, p.491.

¹⁹ LeRiche, M. and Arnold, M. *South Sudan: From Revolution to Independence*, (C. Hurst and Co. Publishers), p.107.



International investment in The CPA peace process

From 2000, individuals in the new Bush administration also invested personal political efforts and US resources to achieve peace in Sudan. In 2001, Bush appointed John Danforth as Special Envoy for Peace to take a lead on the USA's involvement,²⁰ and in the UK, Tony Blair followed suit and appointed a special envoy. After September 11th (a few days after Danforth's appointment), the USA's notion that their security was linked to the outcome of conflicts in places such as Sudan was enforced. In this new, post 9/11 context, the USA government increasingly cooperated with the Sudan security services, and the UK and USA were newly aware of this strategic alliance. In relation to the SPLA-GoS war, this alleviated some of GoS's concern about US involvement in peace making. Meanwhile, Garang also supported USA involvement in the peace process because he was confident of Washington's support on key issues.

By the early 2000s, both the SPLA and GoS also had a growing appetite for peace as they had both come to realise that neither of them could win militarily.²¹ Southern communities were also war weary and increasingly uncertain about the purpose of the war. Local peace agreements, such as the 1999 Wunlit peace agreement between the Nuer and Dinka to the west of the Nile, made it increasingly difficult for the warring parties to mobilise support.

In addition, by the 2000s, peace also promised the benefits of oil for the SPLA. During the war, the SPLA and GoS commanders had personally financially benefited from waging war. However, in the 2000s the Sudan enjoyed an economic boom as oil production increased. The SPLA could only take advantage of the political and economic benefits of the oil wealth through agreement with GoS.

After taking up his role, Danforth initially focused on securing a ceasefire in the Nuba Mountains as a litmus test for the warring parties' sincerity.²² This January 2002 ceasefire was generally successful, and in March 2002, the parties signed the Protection of Civilians Agreement after significant pressure from the USA.²³ Over the next three years, the SPLA and GoS signed a series of agreements that would collectively become known as the Comprehensive Peace Agreement (CPA). The first of these agreements was the Machakos Protocol signed in Kenya in July 2002.

The USA's Executive and Congress made significant political effort to force GoS to agree to a peace process with the SPLA. The USA threatened sanctions on Sudanese companies and threatened to cut Sudanese funding from global bodies such as the IMF if GoS failed to engage with the peace negotiations or if GoS limited humanitarian access.

During the negotiations, Garang played a strong role in shaping US policy towards Sudan, and although usually physically absent, he maintained tight control over his negotiators throughout this period. Young goes as far describing Garang as 'a towering figure, around whom the entire peace process was largely built, and indeed upon which US policy in Sudan was largely based'.²⁴

From the beginning, the peace negotiations were exclusively between the GoS and the SPLA. Garang, backed by the USA, had vehemently opposed including the SSDF in the peace process. The Troika understood the war as being primarily between the SPLA and GoS and perceived the SSDF as only a

²⁰ Healy, S. (2009) 'Peacemaking in the Midst of War: An assessment of IGAD's contribution to regional security', *Crisis States Research Centre Working Paper 59*.

²¹ LeRiche and Arnold, *South Sudan*, p.105.

²² Le Riche and Arnold, *South Sudan*, p.108.

²³ African Security Analysis Programme, 'Insecurity in South Sudan: A Threat to the IGAD Peace Process', 8 June 2004.

²⁴ Young, *The Fate of Sudan*, p.8.



proxy force for GoS. This ignored the SSDF's own support for Southern self-determination and Southerners' grievances with the SPLA.

The SPLA and GoS both had interests in excluding from the negotiations other national actors who were challenging their domestic political authority.²⁵ An attraction of the CPA for GoS was that it allowed the reigning elites to keep their control over the Sudan government and gain new international support for their power.²⁶

The progress of the peace process revolved around the central question of the possibility of Southern self-determination. In June 2002, when the proposed text excluded Southern self-determination, the SPLA and the USA walked out. While Garang still favoured a united, new Sudan, it was increasingly clear that South Sudanese and USA support for the SPLA relied on including the possibility of self-determination. GoS also knew that if they publicly rejected self-determination they would undermine their commitment in the 1997 Khartoum Peace Agreement and push SSDF supporters to the SPLA. In the end, the Machakos Protocol of July 2002 included the possibility of self-determination, and also agreed to a six-year interim period for the implementation of the peace agreement that would start when a full agreement was reached.

Importantly, the Machakos Protocol also implied that the final peace agreement would result in all Southern territories coming under the control of a Southern government that would be dominated by the SPLA/M. This notion was a radical shift from existing configurations of power and actual territorial control in Southern Sudan. Not only did GoS control many of the urban centres in the South, the SSDF also controlled vast amounts of territory in South Sudan. The SSDF made it clear that they would refuse to comply with GoS's request to relinquish control to the untrusted SPLA. Conversely, the peace process also strengthened the SPLA and encouraged defections to its ranks.²⁷

Hostilities on the ground did not wane after the Machakos Protocol. In September 2002, the SPLA carried out a large, lethal offensive on the strategic Southern town of Torit. The GoS was angered by this offensive because of its timing during the peace talks and because it killed many senior SAF commanders. The attack also seemed unnecessary as the Machakos Protocol already suggested that Torit would be peacefully handed over to the SPLA at the end of the negotiations. Yet the SPLA wanted to make clear that its own military might meant that it needed to be taken seriously at the negotiating table.

Following the signing of the Cessation of Hostilities Agreement (15th October 2002) the parties finally started to curtail the fighting, although there were continued breaches of the agreement throughout this period.

In the context of an increasingly likely GoS-SPLA peace deal, John Garang and Salva Kiir (then First Deputy Chairman of the SPLA) fell out. Kiir was concerned that Garang's signature on the peace agreement would give Garang further, international legitimacy and leave no room for reform in the SPLA/M structures to decentralise power away from Garang. Kiir had long questioned Garang's dictatorial authority over the SPLA. In the end, during a meeting in Rumbek in 2004, John Garang and Salva Kiir were reconciled enough to allow the continuation of the peace negotiations.

The CPA negotiations had been slow and protracted, but they finally ended successfully on the 9th January 2005. Without the pressure and investment of the Troika it is unlikely that the agreement would have ever been made or that GoS would have committed to a vote on Southern self-

²⁵ Young, *The Fate of Sudan*, p.9.

²⁶ Justice Africa (2005) 'Prospects for Peace in Sudan, Briefing', 23rd February 2005, p.9.

²⁷ ASAP, 'Insecurity in South Sudan', p.4.



determination, and there was much congratulating amongst the Troika and regional actors at the signing of the CPA. However, many international actors now had vested interests in the CPA working and the CPA's analysis of the Sudan conflict being proved accurate.

Key features of the CPA

A Referendum on Southern Succession

For most Southern Sudanese and the Troika, the CPA was ground breaking and legitimate because of its commitment to a referendum on Southern self-determination. This appeared to address the root causes of the war by giving GoS and the SPLA a six-year period to convince Southerners of the benefit of unity and, if not, allow their independence. With the signing of the CPA, the best hopes for Southern self-determination were no longer through war but through the implementation of the CPA. However, this meant that both the international community and South Sudanese were reluctant to criticise other parts of the implementation of the CPA for fear it would undermine this commitment.

Creating a New, Oil-Rich, Southern Government

On paper, the CPA text includes many aspirations to reordering the governance systems of Sudan and Southern Sudan. Part III of the Power Sharing Agreement (May 2004) stated that 'there shall be a Government of Southern Sudan (GOSS), as per the border of the 1/1/56'. The CPA entrenched the regional power of the GOSS and created the basis of the constitutional structures, including a parliament, executive and judiciary. With the promise of the referendum, GOSS was also seen as a potential state government in waiting.

The CPA also gave the SPLM (the political wing of the SPLA) political dominance in GOSS. According to the Agreement, prior to the elections, the SPLM was given 70% of the representation of the new legislature and executive, while 15% went to the NCP and the other 15% to other Southern parties.

The January 2004 Agreement on Wealth was agreed with relative ease,²⁸ dividing oil revenue evenly between GoSS and GOS after 2% was given to the region where oil had been drilled. This meant that the new GoSS would start with a large revenue almost entirely from oil, and in 2011, the government budget was estimated to be 98 percent dependent on oil revenue.

The oil monies suddenly made the SPLA/M rich.²⁹ During the war, a neo-patrimonial system of governance had already become apparent, and the oil-rich government now meant access to resources was gained through being part of the government. However, this also created a political market place that played a part in the causes of the civil war that began in December 2013.³⁰

For the international community, a major potential risk to the CPA was the question of whether the SPLA/M had the ability to transition to a modern, state government. The international community framed many of the concerns with the GoSS as being about a lack of capacity. There were even assumptions that the ongoing armed opposition to GoSS was about the SPLA's lack of security capacity (as opposed to deep-seated grievances against the SPLA). Therefore, the Troika and others pursued an agenda of state building and invested hundreds of millions of pounds in support of the new GoSS.

²⁸ Le Riche and Arnold, *South Sudan*, p.109.

²⁹ De Waal, A. (2014) 'When kleptocracy becomes insolvent: root causes of the civil war in South Sudan', *African Affairs* 113(452): 347-369.

³⁰ De Waal, 'When kleptocracy'.



However, this discouraged an honest assessment of the real character of the SPLA-dominated GoSS. According to Young (2012), while there was formal concern with state building, in practice international support often reinforced the power of favoured individuals. This entrenched SPLA and elites' beliefs that they could secure power through international support and that support was not dependent on their relationship with South Sudanese.

A Commitment to Elections

The CPA also committed the signatories to elections in 2010, in which South Sudanese voted on an incredible array of public officials, including the President of Sudan, the President of South Sudan, the Sudanese and South Sudanese legislatures and the state governors. The CPA outlined the 2010 elections as a necessary milestone on the way to the 2011 referendum. Since the early 1990s, elections had become a priority in Africa for the international community in its push for good governance and democracy as the basis for economic and political development. Garang favoured elections because he believed he had a chance of winning a nation-wide Sudanese election and, as President of Sudan, implementing his vision of a new Sudan. If he won the election, he believed Southerners would have been less inclined to vote for independence; and if he did not win, then Southerners would opt to leave Sudan.³¹

Excluding the South Sudan Defense Force (SSDF)

Another key feature of the CPA was its exclusive nature: it enshrined an elite agreement between the SPLA and GoS, and did not include agreement from other South Sudanese actors, such as the SSDF. At the same time, parties and the international community presented the agreement as applying to everyone. The CPA imagined that the SPLA and GoS had exclusive military control of the Sudan, yet this was aspirational and not a description of the real configuration of military might. The SSDF were not only excluded from the peace negotiations and agreement, but were also not even explicitly mentioned in the CPA; the SSDF were just mentioned implicitly under 'Other Armed Groups' (OAGs).

The CPA stipulated that within a year of signing, all members of OAGs would either integrate into the SPLA, join the new Joint Integrated Units (JIU)³² or disband, despite the fact that the OAGs had not been signatories to the agreement, and despite the lack of cooperation between the SPLA and the SSDF. Garang had consistently opposed the integration of the SSDF into the SPLA and the SSDF deeply distrusted Garang. In June 2005, initial talks between the SPLA and SSDF after the CPA broke down without success. The SSDF also showed no willingness to disband. The CPA's stipulation that this should all be done within a year was also unrealistic, and the CPA's dissonance with reality created ambiguity between the SSDF and SPLA that has prompted much conflict since 2005.

OAGs also included other armed civilians who had both fought with or against the SPLA. Through the CPA, the SPLA was trying to limit those who had access to military might in South Sudan. This of course flew in the face of SPLA and GoS actions in the previous decades, in which they had dispersed automatic weapons to civilians and militias. Furthermore, many communities did not trust the SPLA and wanted local, armed defense forces.

In conclusion, the CPA was based on the flawed notion that the SPLM/A could hold a monopoly over the use of force in the South. However, at the time there were more armed men in the SSDF and local defense forces that opposed the SPLA than there were armed men in the SPLA itself. The CPA imagined a new configuration of power that was highly optimistic at best and that turned out to be implausible.

³¹ Le Riche and Arnold, *South Sudan*, p.112.

³² The JIU were units made up of SAF and SPLA troops in urban centres in South Sudan.



Excluding the South Sudanese

While on paper the CPA text is more than an elite bargain, in practice the agreement was little more. The CPA negotiations left no room for representation of other South Sudanese voices, and instead the SPLA and GoS successfully excluded other political parties, other armed groups, civil society and other public authorities in South Sudan such as the chiefs.

At the same time, the CPA also gave international legitimacy to this elite deal that entrenched the political and economic powers of the politico-military elite. Once signed, the international community became beholden to the CPA's framework, especially because of the promised referendum. The international community was reluctant to criticise the newly oil-rich elite of the Southern government, as discussed below, in case this undermined the whole CPA.

Excluding Justice and Peace

The CPA also contained no provision for GoS and the SPLA to be held accountable for their wartime behaviour. During the wars of the 1980s and 1990s, GoS and the SPLA had carried out extreme violations of Sudanese and international legal and normative codes of conduct in war. However, the question of accountability was dropped from the Machakos Protocol 2002.

The sustainability of the CPA elite bargain

After the signing of the CPA, there was widespread fear that GoS would not fully uphold the CPA. This was especially as "there can be few instances in which a sovereign state, which has not lost a war, has yielded such intrusive involvement in its internal dynamics".³³ The UN quickly assumed significant powers to monitor the CPA. The CPA's success also relied on US support and their ongoing pressure on the Sudan.³⁴

In the early years, the SPLA believed that the CPA was nothing more than a temporary cessation of hostilities and so the SPLA was eager to stay militarily strong. Therefore, the SPLA/M's first priority was to bind the loyalties of senior officers and rank-and-file troops through financial incentives and regular monthly salaries.³⁵ Oil revenue made this possible. These revenues also allowed 'kleptocratic' SPLA and SPLM leaders to build personal patronage networks.³⁶ When Garang suddenly died in 2005, the SPLA was also eager to rapidly replace the leader to make sure that a vacuum of leadership did not provide an opportunity for GoS to restart hostilities.

For many observers in South Sudan and around the world, the sustainability of the CPA surpassed expectations. While many details in the CPA were not adequately implemented, the key points of the referendum and the upholding of South Sudan's independence in July 2011 took place without a full-blown resumption of armed hostilities between the SPLA and GoS, and by 2011, the CPA was heralded as a massive success.

A key difference that had secured the CPA for the South, in contrast to the 1970s, was that the SPLA had been allowed to keep its army in the south as a guarantor of the peace agreement. "For Garang, whatever the final outcome, the CPA offered guarantees to secure the process the maintenance of a Southern army, strong constitutional provisions for Southern autonomy, a specific time frame for a

³³ Justice Africa, 'Prospects for Peace in Sudan', p.3.

³⁴ Le Riche and Arnold, *South Sudan*, p.110.

³⁵ Hutchinson, S. and Pendle, N. (2015) 'Violence, legitimacy and prophecy: Nuer struggles with uncertainty in South Sudan', *American Ethnologist* 42 (3).

³⁶ De Waal, 'When kleptocracy'; Pinaud, C. (2014) 'South Sudan: Civil war, predation and the making of military aristocracy', *African Affairs* 113(451):192 – 221.



referendum with pre-defined options, and an international peacekeeping presence in the meantime”.³⁷

However, SAF was not the only potential spoiler of the CPA for the SPLA. The SSDF seemed willing to violently oppose the CPA’s entrenching of southern power in the SPLA. Therefore, the sustainability of the CPA was possible only because of another elite bargain – namely the Juba Declaration (discussed below).

The sustainability of the CPA was also threatened by the dissonance between the realities of South Sudan and the imagined situation that the CPA projected and that the international community sought to uphold in order to reach the referendum. This was acutely apparent during post-CPA disarmament campaigns, in which multiple attempts to disarm non-SPLA or government armed forces resulted in violent challenges to the authority of the government.³⁸

In addition, the overlooking of the smaller milestones of the CPA would later have significant implications for Sudan and South Sudan. For example, the 2012 oil shutdown, discussed below, should have been resolved as part of the pre-independence Sudan – GOSS negotiations.

While the CPA bought a cessation of hostilities between the SPLA and GOS it did not start a period of peace in the South Sudan (or Sudan). Even when there appeared to be relative peace between the elites in Juba, armed conflicts continued across South Sudan, and therefore for many South Sudanese, the signing of the CPA is associated with renewed violence. For example, in 2005 there was renewed armed cattle raiding between the western Nuer and Dinka, on a larger scale than previously which brought to an end a local peace that had been reached in Wunlit in 1999. These raids were intimately connected with elite politics of the centre: many politicians in Juba, including those at the very highest levels, invested some of their newly acquired oil wealth in cattle in the grazing lands. Commanders aspired to have herds of tens of thousands of cattle and relied on male relatives to guard these herds, who they armed to ensure their protection. These young men were under an obligation to ensure these elite herds grew in number and they would raid to restock if animals were lost to disease or armed conflict.

III: The Juba Declaration

Context

The wording of the CPA gave the SPLA/M an effective monopoly over power in the South. However, this ignored the prominent role played by the SSDF and other Southern armed groups that outnumbered the SPLA at the CPA’s signing and during its implementation.³⁹ This dissonance between the CPA and the actual configurations of military power left the SSDF in an ambiguous situation. SSDF concerns were compounded by that fact that the CPA altered SAF – SSDF relationship and made it more difficult for SAF to continue to supply the SSDF. GoSS and the international community often presented the SSDF as potential spoilers of the CPA. Yet, the CPA itself had also spoilt possibilities for Southern reconciliation by aggravating SSDF fears of an all-powerful SPLA.

³⁷ Le Riche and Arnold, *South Sudan*, p.113.

³⁸ Saferworld. *Civilian disarmament in South Sudan: a legacy of struggle*. London: Safer World (2012).

³⁹ Arnold, Matthew (2007) ‘The South Sudan Defense Force: Patriots, Collaborators or Spoilers’, *The Journal of Modern African Studies* 45(4): 489-516, pp.489-490.



The antecedents of an elite bargain

On the 30th July 2005, John Garang died in a helicopter crash while travelling back from Uganda to South Sudan. After internal SPLA debate, Kiir was chosen to replace Garang because he was the most senior ranking SPLA officer. Opponents of Kiir conceded partly as they knew a lack of SPLA leadership might be seen by SAF as weakness and a reason to disregard the CPA.

The new premiership of Kiir restructured power dynamics in the SPLA itself. Garang and his loyal supporters who relied on his patronage (Garangists) had centralised authority in the SPLA. Commanders such as Kerubino, Riek and, recently, Kiir had pushed against this. Despite Garang's death, other Garangists still remained in the most powerful positions in the SPLM and SPLA. Therefore, they were a constant challenge to Kiir's authority and security of tenure.

Kiir's new leadership of the SPLA also brought a new opportunity for an elite bargain between the SSDF and the SPLA. Part of the reason Kiir and Garang had disagreed in 2004 was over Garang's failure to dialogue with the SSDF. Matip (leader of the SSDF) was also more willing to work with Kiir than he had been Garang. In addition, Matip and Kiir were closer ideologically: for both, Southern independence had been the aim of the Southern rebellions.⁴⁰

The CPA had stipulated that Other Armed Groups should be integrated or disbanded within a year of the CPA's signing. Kiir used this commitment to initiate talks between himself and Matip. This resulted in the signing of the Juba Declaration that integrated the SSDF into the SPLA, which was signed on the 8th January 2006 to meet the deadline stipulated by the CPA.

In stark contrast to the CPA's decade of IGAD negotiations and three years of agreement signing, the Juba Declaration was agreed in just three days in January 2006. The agreement itself is only four pages long, and was a bold bargain between two elite actors. The politics of the agreement was not hidden behind technical language and foreign expertise, and the only small international involvement was from the Moi African Institute of Kenya. However, despite this brevity, in these four pages the largest two armed forces of Southern Sudan, who had fought bitterly for two decades, made an agreement to integrate.

The SSDF demanded four concessions before signing the Juba Declaration.⁴¹ Firstly, they demanded full political participation in GOSS, including key political positions at all levels of governance. Secondly, the 'new SPLA' had to be non-partisan and not controlled by the SPLM. Thirdly, if the South gained independence, they should change their name to the South Sudan Army. Fourthly, and most importantly, the SSDF wanted assurance that the referendum would take place. The international community had often dismissed the SSDF as mercenaries, especially after their funding from Khartoum in the 1990s despite the fact that the SSDF and its leaders had, in fact, remained ideologically consistent: since Anyanya II in the early 1980s, they had advocated for self-determination. In 2006, Kiir promised the SSDF that the referendum would take place no matter what obstacles they faced.

For Kiir, the integration of the SSDF into the SPLA did not only uphold the CPA and make more realistic SPLA dominance in the South, but more personally the SSDF's inclusion in the SPLA could also reconfigure the politics of the SPLA in Kiir's favour by shifting the balance of power within the SPLA away from the Garangists and towards Kiir. Through Matip's loyalty, Kiir gained the support of an armed force larger than that of the Garangists and, on the many occasions after 2006 when Kiir feared opposition inside the SPLA, Matip reassured him that he could be confident of his support.

⁴⁰ Young, *The White Army*.

⁴¹ Arnold, 'The South Sudan Defense Force', p.495.



The Juba Declaration was undoubtedly underpinned by the promise of government money. The CPA gave Kiir access to vast oil wealth that he could also use to entice the SSDF into the CPA, and he hoped that his cash gifts to the SSDF would prevent them being bought off by the Sudan government. Southerners feared that Khartoum would continue to support the SSDF in order to destabilise the South and end their hopes of succession.

In addition, Kiir sought to make SPLA membership (instead of SAF loyalty) more attractive for SSDF soldiers. The Juba Declaration allowed the SPLA's absorption of almost 100,000 soldiers, and the SSDF were incorporated into the SPLA at their previous ranks, making them eligible for SPLA pay. Shortly after the Juba Declaration, the Southern Sudan Legislative Assembly voted to double the pay of private soldiers to \$150 USD per month, which was twice that of their counter-parts in SAF. As the referendum approached, this was increased to \$220 USD per month.⁴² Soldiers benefited from these larger salaries, as did commanders. As GOSS distributed soldiers' salaries through commanders, commanders were able to keep the salaries of fictional soldiers to amass a large personal wealth.

Later, Garangists in GOSS would push to have an established database of SPLA soldiers to reduce the ability of individual commanders to capture significant numbers of salaries. This would diminish commanders' personal control over their soldiers and centralise control in the SPLA in favour of the Garangists. This was opposed by many in the SPLA (both former SSDF and long-term SPLA) and never fully achieved before the 2013 crisis.

In sum, therefore, the elite bargain between Kiir and Matip created an unlikely peace between the SPLA and the SSDF that made the implementation of the CPA possible.

The sustainability of the elite bargain

The Kiir-Matip bargain almost certainly averted an immediate civil war in the South.⁴³ After the signing of the CPA and until Garang's death, the exclusion of the SSDF had made it incredibly likely that the SSDF would violently oppose the CPA and the SPLA's leadership of the South, which was averted by the Kiir-Matip elite bargain. However, the Juba Declaration made the stability of the South heavily reliant on the Kiir-Matip relationship and the continued wealth of GOSS to buy-in support. Neither of these proved stable.

As the international community viewed the Juba Declaration with suspicion they failed to invest in turning this elite bargain into a stable political settlement. The common international perception of the Juba Declaration was an "implicit promise of honour amongst thieves".⁴⁴ Since the 1990s, the Troika and others had viewed the SSDF as an illegitimate opposition to the SPLA and this was reflected in their approach to the Juba Declaration.

One opportunity for international support towards a more stable SSDF-SPLA relationship could have come during the 2010 elections. For former members of the SSDF, the national elections were a test of the SPLA/M's willingness for GoSS to be politically inclusive and include the voices of former anti-SPLA Southerners, as well as other South Sudanese. However, the elections in practice ended up involving vote rigging and many irregularities.⁴⁵ As had been made clear in the negotiations for the Juba Declaration, a central SSDF concern was their full political participation in the new South Sudan and the first elections had left them feeling disenfranchised. For many South Sudanese, the elections were an expression of the continued dominance of the SPLA military elite in times of peace that

⁴² De Waal, 'When kleptocracy', p.355.

⁴³ De Waal, 'When kleptocracy'.

⁴⁴ De Waal, 'When kleptocracy', p.355.

⁴⁵ Carter Centre, *Observing Sudan's 2010 Elections: Final Report*, April 2010.



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mirrored the SPLA's dictatorial violence in pre-CPA times of war. The elections simply cemented the power of SPLA elites.⁴⁶

The international community failed to criticise the elections and instead bestowed recognition and legitimacy on the elected leaders. They feared criticising the elections in fear that this would undermine the promised referendum on self-determination. "For the SPLM leadership and its international backers, self-determination was more important than democracy".⁴⁷ The SPLA and their international friends left no political space for other, peaceful Southern voices. Opposition was alienated and many anti-GoSS rebellions started in the following years, including by former SSDF commanders. For example, in 2011, former SSDF commander Peter Gadet rebelled against GOSS. He explained his reasons for rebellion in the following way:

"The exclusion politics of the SPLM has generated extreme disillusionment with the SPLM among the people of South Sudan. However, many people were restrained from taking action by the fact that everybody was awaiting the conduct of the referendum. This was misread by the SPLM as impotence and inability to do something... The leadership of the SPLM was abusing our patriotism for their narrow interests."⁴⁸

Gadet also incited "rampant corruption" as the cause of his rebellion. He praised the wording of the CPA but said that the failure of the CPA to be implemented and GOSS's ignoring of the good governance provisions drove his rebellion.

Another missed opportunity for the international community to transform the SSDF-SPLA elite bargain into a stable political settlement came through the process of disarmament. GOSS's attempts to disarm civilians, especially in communities that had formerly supported the SSDF, also prompted widespread-armed opposition. As with the elections, for many South Sudanese disarmament was an expression of the SPLA/M's attempts to claim authoritarian control of the South. This made it increasingly difficult for the SSDF to accept the Juba Declaration. Yet, the disarmament campaigns seemed consistent with the letter of the CPA. The international community, and especially the UN and Troika, continued to remain reluctant to criticise these actions of the SPLA in fear of undermining the CPA. Therefore, the international community sanctioned actions that were deepening distrust at the heart of the national army, and between South Sudanese and their government.

UN and donor technical support to the SPLA also acted as a potential spoiler to the Juba Declaration in the way it was framed. Internationally funded technical support to the SPLA often favoured long serving members of the SPLA who had more formal military training. Those integrating for the SSDF often had had no formal military training and were seen as an obstacle to the professionalisation of the SPLA. This entrenched divisions in the SPLA and created an atmosphere in which the former SSDF soldiers in the SPLA felt alienated.

At the same time, the historic divisions in the SPLA were reflected in the organisation of the SPLA's divisions. Former SSDF soldiers dominated certain divisions, which left them available to be more quickly mobilised quickly by elites and undermined a common SPLA identity.

For most South Sudanese, neither the CPA nor the Juba Declaration ended all fighting nor created a situation of security. The elite bargains of the CPA and the Juba Declaration brought together leaders but failed to bring together communities that had previously fought on their behalf. Elites were reluctant to rebuild relationships between South Sudanese communities in case they needed to

⁴⁶ De Waal, 'When kleptocracy'.

⁴⁷ De Waal, 'When kleptocracy', p354.

⁴⁸ Mayom Declaration 2011.



mobilise a loyal constituency based around historic and ethnic divisions. For example, many home communities still did not believe that they had permission from elites to restore inter-ethnic relationships and reinstall peaceful mechanisms of local justice.⁴⁹ This entrenched divisions between communities and left unsolved grievances. In addition, the elites' kleptocracy was not limited to oil wealth. They also acquired land for grazing, farming or sale, and many sought to profit from exporting timber. Their snatching of resources often interrupted the livelihoods and property rights of South Sudanese, prompting angry responses against government and elites. Individual elites often sought to deflect local criticism and mobilise protection by churning up ethnic ideas of land and resource ownership.

The Falling Apart of the CPA and Juba Declaration

In January 2012, during an argument with Sudan over the distribution of oil revenue, GoSS announced that they would shut down oil production. This cut off almost all income to the nascent Southern government and emptied the pot that was used to hold elites together. By this time, Matip (leader of the SSDF forces) was increasingly ill and absent from politics, and eventually died in August 2012. At its core, the Juba Declaration had been an elite bargain between Kiir and Matip, and his death raised serious questions about the continuity of the bargain.

With the growing absence of Matip, tension with northern Sudan was also an opportunity for other Southern military leaders to assert their national significance and ascend the political ladder. The 2011/2012 tensions and then conflict with Sudan created a context for Paul Malong (then governor of Northern Bahr el Ghazal) to lead a recruitment drive in Bahr el Ghazal. This new force would become known as the *Mathiang Anyoor*. The force was presented by Malong as part of the national army and was initially recruited to preserve Southern territorial integrity against Sudan. Yet this large force, directly answerable to Bahr el Ghazal commanders, threatened to shift again the power dynamics at the heart of the SPLA. This new force offered an alternative counter-weight to the power of the Garangists in the SPLA now that SSDF support was less clear-cut. Yet, the Garangists again highlighted the untrained, locally recruited nature of the *Mathiang Anyoor*, implicitly comparing them to the former SSDF forces. In 2013, the SPLA High Command, that Garangists still dominated, refused the incorporation of the *Mathiang Anyoor* into the SPLA.

By 2013, focus was turning again to elections that were timetabled for 2015. In March 2013, Riek Machar, Pagan Amum and Rebecca Nyandeng (wife of the late John Garang) declared that they would compete against Salva Kiir to be the SPLM presidential candidate in the 2015 national elections. The SPLM nomination would almost certainly become President, and Riek needed to build a national political constituency if he was to have a hope of victory. In order to incorporate the Garangists and Dinka Bor, he attempted to suggest that the more salient political division was not the Nuer-Dinka division but the regional divisions between Bahr el Ghazal, Upper Nile and the Equatorias. Framing the SPLA/M and GOSS as dominated by Dinka from Bahr el Ghazal supported Riek's aspirations, and he also initiated attempts at reconciliation with Nuer and Dinka groups in Greater Upper Nile who he had fought during the war. He tried to host a peace meeting in the Bul Nuer lands, where Matip had been based in the 1990s, and apologised to the Dinka Bor for the 1991 massacre.

Kiir responded with new attempts to assert control over the army and government that would result in the outbreak of national armed conflict before the year's end. In early 2013, he retired various leaders in the SPLA, and in July dismissed almost his entire cabinet, including Vice President Riek

⁴⁹ This claim is based on interviews carried out by Naomi Pendle with chiefs, cattle keepers and other community members in the western Nuer and Dinka during her doctoral research from 2010 – 2013.



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Machar. For many, Riek's long-term position as Vice President had been symbolic of the inclusive nature of the government. A few weeks before, Kiir had suspended Pagan Amum and also offered a new wave of amnesty to armed groups who had rebelled against GOSS in recent years. For example, the South Sudan Liberation Army (SSLA) had gained prominence in 2011 under the leadership of Peter Gadet, and in 2013 the SSLA accepted Kiir's amnesty. By shifting the alliances of these armed groups, Kiir was able to rebalance military might in his favour. Although these moves were savvy in alienating Riek and the Garangists and building his own political and military support, he failed to capture international imagination and legitimacy.

In 2013, Kiir also brought to near Juba a new force known as the *Dut ku Beny* (Dinka for 'protector of the boss'). For Kiir, these forces were a personal protection force that had been recruited for the cattle camps of his home area.⁵⁰ They had similarities with the *Mathiang Anyoor* in that they were a recently recruited force loyal to the Bahr el Ghazal wing of the SPLA.

In December 2013, a meeting of the SPLM's National Liberation Council was convened to decide the SPLM candidacy for the next election to be held in 2015. A historically diverse group of actors, who shared the experience of being alienated from government by Kiir, rallied around Riek Machar's bid to be SPLM candidate.

During these SPLM meetings and political wrangles in South Sudan, on the night of the 15th December 2013, a few soldiers started a gunfight in the barracks of the presidential guard in Juba. It was interpreted almost instantly as having national political implications and people reacted accordingly. The SPLA in Juba split and the divided factions started battling for control of the arms stores.

It was not only factions of the SPLA that distrusted each other. Since the 1990s and in the raiding since 2005, communities had been divided and polarized, often along ethnic lines. The post CPA government and elites of South Sudan had failed to rebuild local justice mechanisms capable of restoring peace between communities. As mentioned above, elites had had an interest in being able to rapidly mobilise their constituencies along ethnic lines. In December 2013, many Dinka SPLA commanders, soldiers and new recruits held a deep mistrust of Nuer, partly based on unhealed tensions from the 1990s. On 16th December, men in uniform started door-to-door searches, rounding up and killing civilians based on their perceived Nuer identity, and tens of thousands of terrified citizens fled to UNMISS camps seeking protection.

At the same time, news quickly spread of the ethnicised armed violence in Juba. Fears were only affirmed when Kiir appeared on television in military fatigues and accused Machar of an attempted coup. Kiir invoked memories of the 1991 split in the SPLA and the period of ethnic violence that followed.⁵¹ Across the country, Nuer generals, soldiers and communities started to rise up in armed rebellion against a government that they now feared, and the armed opposition quickly framed the conflict as a feud against the government.

When the SPLA divided in December 2013, the former SSDF forces in the SPLA rebelled.⁵² They were supported by widespread support from Nuer across South Sudan. When the armed opposition was shaped into a more formal hierarchy in April 2014, all the senior commanders (with the exception of

⁵⁰ Pendle, N. (2015) "'They are now Community Police': Negotiating the Boundaries and Nature of the State in South Sudan through the Identity of Militarized Cattle Keepers", *International Journal of Minority and Group Rights* 22: 410 – 434.

⁵¹ Jok, J. and Hutchinson, S. (1999) 'Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities', *African Studies Review* 42(2): 125-145.

⁵² Johnson, D. (2014) 'Briefing: The Crisis in South Sudan', *African Affairs* 113(451):300–309.



James Koang) were former commanders of the SSDF. Some other Nuer, Garangists remained loyal to the Juba government.

Since December 2013, civil war has raged in South Sudan, and it is unclear how many people have been killed either directly by the conflict, or by the war-induced famine and severe food insecurity that has been created as a result. Again, international actors have funded negotiations and a peace agreement and, in 2015, GOSS, the SPLA-IO and the Detainees signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan. However, the signing of this agreement has correlated not with an end in fighting but with the geographic spread of insecurity and conflict.

IV: Conclusion

The wars of the 1980s and 1990s left a deeply divided political and military elite in Southern Sudan.⁵³ The CPA and Juba Declaration, especially in the way that they were implemented, were both elite bargains that allowed a cessation of hostilities that lasted long enough for South Sudan to gain its independence. However, these elite bargains failed to restore trust or to be transformed into more stable political settlements that would have provided a more 'sticky' peace for the South Sudanese. According to de Waal, these elites were only bound together into this temporary 'peace' because of the oil revenue and Kiir's ability to buy people's support.⁵⁴ Peace between the elites in South Sudan was dependent on Kiir having the money to fund this bought loyalty.⁵⁵ After Garang's death, a shared ideology in favour of South Sudan's independence also drew Southerners together. Yet, these temporary bargains and alliances left no long-term political stability. The CPA and Juba Declaration, therefore, provide contrasting examples of elite bargains in South Sudan.

Firstly, the CPA was an internationally brokered agreement and the Troika had a personal interest in seeing it implemented, especially through the implementation of a referendum on Southern independence. The Troika, the UN and others became bound to the CPA's framework and to the legitimacy of the signatories. The Troika favoured prioritising an elite cessation of hostilities between the signatories and not upholding broader, liberal provisions especially when this was seen to risk the peace and Southern self-determination that they have invested in. For some South Sudanese, the Troika and UN's support to the legitimacy of the SPLA has often become a resented veil that subjected them to another strong central government.

In contrast, the Juba Declaration had almost no international support. This freed the international community to be more critical of the parties and their behaviour after the agreement, but meant that the international community failed to take any political risks to support the SSDF-SPLA relationship and to alleviate SSDF concerns in the dominance of the SPLA. In contrast, the international community during the elections and disarmament campaigns ignored former SSDF and others' concerns.

Secondly, the CPA included provisions that were not only aspirational but also provisions that the signatories had no realistic power of carrying out themselves. In contrast, the signatories of the Juba Declaration could more realistically carry out its provisions. As the CPA demanded such radical shifts in political and military power it came close to immediately escalating conflict, which was only paused by the Juba Declaration.

⁵³ Johnson, 'Briefing'.

⁵⁴ De Waal, 'When kleptocracy'.

⁵⁵ De Waal, 'When kleptocracy'.



Thirdly, the CPA was an agreement whose complicated texts reached way beyond a cessation of hostilities or an elite bargain, and that imagined a neo-liberal peace based on transitional power sharing, elections and other concepts of good governance. These agreements were negotiated over years and amounted to a (temporary) constitution making processes. The written provisions appeared to be inclusive of the promise of a future voice of South Sudanese.

However, the heavy international involvement in the negotiations and in its implementation meant that the political and military elites participating in these agreements focused on international pressure as much as their South Sudanese constituencies or South Sudanese public opinion more broadly. The governing elites in South Sudan knew they would keep their power through support from IGAD countries, the UN and the Troika, not directly through the South Sudanese people. This created a contradiction at the heart of these agreements.

Plus, as the Troika and UN were nervous about undermining the CPA they failed to challenge the legitimacy of GoSS when they failed to deliver on CPA commitments to free and fair elections, and on more representative, restrained government. South Sudanese felt disenfranchised but the international community delegitimised their descent by their continued, unquestioning support of GoSS and the SPLA.

The Juba Declaration was a more explicit elite bargain and made no claims to broader shifts in government arrangements. However, the Juba Declaration's inclusion of both the SPLA and SSDF, to some extent gave it a wider appeal in South Sudan.

In the way they were implemented, both the CPA and Juba Declaration acted as elite bargains that facilitated the Southern elite to become oil rich, and both peace deals failed to become lasting political settlements. Yet the Troika, the UN and East African governments had heavily invested in the CPA and presented it as a longer-term political settlement. Therefore, these international actors became bound to the legitimacy of the CPA framework and its signatories, and they struggled to challenge in a timely fashion the exclusionary nature of the Southern government and SPLA.



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