

SUDANREPORT

Challenges Facing Sudan after Referendum Day 2011 Persistent and Emerging Conflict in the North-South Borderline States

Abdalbasit Saeed

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Acronyms and Abbreviations

ABY	Abyei
BLB	borderline belt
BNS	Blue Nile State
CAR	Central African Republic
CPA	Comprehensive Peace Agreement
km	kilometres
km ²	square kilometres
mm	millimetres
NCP	National Congress Party
PCA	Permanent Court of Arbitration
SAF	Sudan Armed Forces
SDS	South Darfur State
SINS	Sinnar State
SKS	South Kordofan State
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
TBC	Technical Border Committee
TTAs	Three Transitional Areas (Blue Nile, South Kordofan, and Abyei)
UN	United Nations
UNS	Upper Nile State
WNR	White Nile River
WNS	White Nile State

Executive Summary

With the referendum on the self-determination of South Sudan scheduled for January 9, 2011, Sudan will enter the final phase covered by the Comprehensive Peace Agreement of 2005. If South Sudanese vote, as expected, in favour of independence, a new country will emerge after a final six-month transition period.

If a new war is to be averted, the two successor countries must find a basis for building relations of cooperation and collaboration rather than confrontation. They must deal with multiple post-referendum issues, including division of oil revenues, collaboration on the production and transport of oil, population movements across the border, and more. Among the most volatile issues will be disputes about borders and contested resources—especially arable land, pasture land, and water access points—in the sensitive “borderline belt” that stretches across the country from west to east.

Ten states are ranged along the assumed dividing line that currently separates North Sudan from South Sudan. The territory occupied by these states has been shared and contested by different peoples speaking different languages and pursuing different livelihoods since medieval times. They include both settled peasant cultivators and transhumant pastoralists whose livelihood depends on access to water and pasture in different areas depending on the season. These traditional sources of resource conflict have been accentuated in colonial and post-colonial times by the expansion of plantation agriculture and, more recently, the development of oil production in the area. An additional factor is environmental degradation and desertification in the North, which has impelled northern pastoralists to herd their livestock ever farther south in search of water and pasture.

This paper identifies nine “hotspots” or flashpoints in the borderline belt that are sites of current or potential conflict. It draws out specific factors, both historical and contemporary, that have contributed to these long-running disputes. Separate sections of the paper focus on border issues between White Nile and Upper Nile states, border issues involving South Kordofan State, and the particularly contentious issue of the oil-rich Abyei area. The greatest potential for renewed conflict lies in the alignment of local resource-based disputes with conflicts between political and economic actors at the subnational and national levels. If left to fester, such local disputes could spark widening hostilities that contribute to a return to all-out war. National and international stakeholders must therefore work to promote resolution of local disputes and resource-sharing agreements to improve the prospects for peaceful, neighbourly relations between the two successor countries.

To improve the chances for peace and sustainable human development, both national and international stakeholders should focus on the development of state government capacity in the borderline states. This includes capacity for dispute resolution and conflict prevention. Equally important, it must include the capacity to provide support for basic services to both pastoralist and settled communities in key areas such as water, land, health, and education. A material “peace dividend” in the early post-referendum period can help build confidence in the population and lay the foundation for future peacebuilding and collaboration.

Challenges Facing Sudan after Referendum Day 2011

Persistent and Emerging Conflict in the North-South Borderline States

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Part 1: Introduction: Research Problem, Primary Assumptions, and Objectives

The turbulent history of Sudan over the past two centuries has featured multiple wars driven by exploitation and competition between states and sultanates; ill-documented, largely uncontrolled population movements in the hinterlands; sectarianism and religious movements; and control by powerful colonial interests.² Medieval tributary states and sultanates, including the Funj Kingdom, the Musaba'at Sultanate, and the Sultans of Darfur, acting separately, seem to have opened a wide space for movement of nomadic pastoralist communities, allowing them to range south into the territories of settled Sub-Saharan African communities. These movements laid the basis for inequitable horizontal relationships. Arab slavers reportedly used the vast western hinterland of the Central Nile Valley as a hunting ground for human booty. Anglo-Egyptian attempts to curb the trade came only late in the nineteenth century and had limited success.

Sudan gained independence from joint British-Egyptian rule in 1956. But full-scale civil war soon erupted over the status of the south, which had been ruled separately by the British. The military-led government of President Jaafar Nimeiri agreed to autonomy for the south in 1972, but fighting broke out again in 1983. A new Comprehensive Peace Agreement, with international support, was signed in 2005, providing autonomy for the south, an uneasy coalition government of national unity between the ruling National Congress Party and the Sudan People's Liberation Movement, and mechanisms for self-determination, including the option of independence for the south.

History suggests that when people are given the option to be set free from the rule of those whom they perceive as oppressors, they will almost always choose secession and independence. The case of South Sudan is not likely to be an exception. A primary assumption of this paper is that in the referendum on January 9, 2011, the people of South Sudan will choose to create their own country, independent of the mother country, Sudan, in which they have lived for almost two hundred years. This will lead to the creation of an independent state, premised on the 1/1/1956 border that is yet to be demarcated.

² United Nations, "Sudan: Common Country Assessment (CCA) & United Nations Development Assistance Framework (UNDAF), 2002–2006." April 2002. <http://www.sd.undp.org/Doc/CCA-UNDAF-Apr2002.htm>.

1.1 Context set by the Comprehensive Peace Agreement

The 2011 referendum will be the last benchmark in the implementation of the Comprehensive Peace Agreement (CPA) that was signed in 2005.³ As such, it will determine the future of Sudan: one united country or two neighbouring sovereign states? If South Sudan chooses to separate, the CPA will go into the history books as a unique constitutional process, a model for the creation of a new sovereign state in a manner never before seen in Africa. The CPA will end after a short transition period of six months, followed by the creation of a new state of South Sudan.

Despite the regional precedent of Eritrea's independence from Ethiopia in 1991, the creation of a new sovereign state in Africa poses serious issues, particularly given that separation will be an unwelcome fact for many North Sudanese. In this referendum on self-determination, the people of South Sudan are the sole voters/actors envisioned in the CPA; the people of North Sudan will be onlookers, passive recipients of the results. One-third of the land area of Sudan will be forfeited to the new state, including close to 80 percent of currently produced oil. The territory of South Sudan also contains 50 percent of the discharge of the River Nile waters contributed by the White Nile and its tributaries. This redivision of land and resources poses complications for future relations between the two successor states. So does the potential closing off of a boundary across which people and livestock migrate regularly in search of their livelihoods. Building constructive, neighbourly relations will require goodwill, attention to the historical context, and an emphasis on the mutual benefits of cooperation.

A key issue will be competition and conflict over resources, especially in the borderline belt between North and South Sudan. This paper lays out a framework for assessment and identification of hotspots and flashpoints in this zone where conflict is occurring or is likely to occur. Such a profile can help us predict what is likely to happen in current and potential conflict areas, looking at both the short term (six months after the referendum) and the medium term (two to three years afterward).

This study excludes the two options of federation or confederation, which are highly unlikely to happen. The scenario considered here, the creation of an independent country of South Sudan, is an extraordinarily difficult one. But it has become virtually inevitable in the wake of the withdrawal of the Sudan People's Liberation Movement (SPLM) from the presidential and national legislative elections in North Sudan in April 2010. Since then, leaders of South Sudan have stated that the days of talking about "making unity attractive" are already gone.

The challenge for the two successor states, then, is to find ways to ensure nonbelligerency and good neighbourliness. They will have to live side by side and share, or divide, resources. How can

³ The CPA was signed in the context of four UN Security Council resolutions against Sudan:

(1) Resolution 1054 (1996) imposed diplomatic sanctions to punish Sudan for its alleged involvement in a 1995 assassination attempt on Egyptian President Hosni Mubarak in Addis Ababa. Sanctions were lifted by Resolution 1372 of 2001.

(2) Resolution 1556 (2004) provided that "all states should take the necessary measures to prevent the sale or supply to all non-Governmental entities and individuals, including the Janjaweed, operating in Darfur." Sanctions will be lifted when the Government of Sudan disarms Janjaweed militias and brings to justice the leaders of the Janjaweed who carried out human rights and international humanitarian law violations.

(3) Resolution 1591 (2005) provided that "all States shall take the necessary measures to prevent entry into or transit through their territories and shall freeze all funds, financial assets and economic resources that are on their territories on the date of adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons designated by the Committee of the Security Council."

(4) Resolution 1672 (2006) names persons to whom Resolution 1591 should apply. Sanctions will be lifted when the parties to the conflict in Darfur have complied with all the commitments and demands made by the UN.

the two states build collaboration and cooperation to replace long-standing confrontation? A strategy is needed for building sustainable peace, security, and stability. Within this picture, a central issue is the development of the borderline states and the sharing of their rich resources.⁴

1.2 Addressing the challenges of the post-referendum period

Both North Sudan and South Sudan will face serious challenges in the post-referendum period. North Sudan will confront a deepening and widening fiscal crisis that may be aggravated by a political crisis and a constitutional crisis as the International Criminal Court pursues implementation of the verdict against the head of state. South Sudan will face the enormous task of building the range of institutions needed by an independent state.

Both successor states will need to focus on meeting the most urgent peacebuilding objectives: establishing security, expanding core national capacity, and delivering initial post-referendum dividends to build confidence among the population. This will require leadership, coordination, and accountability in both North and South Sudan. But it will also require quick assessment and response to immediate threats of conflict, which are most likely to emerge in the borderline belt.

Assuming that the referendum is completed without a return to war, there will still be numerous flashpoints along a border that is not yet fully defined. The most prominent among them is Abyei, which has been the focus of a specific CPA protocol, the Protocol on the Resolution of Abyei Conflict. A separate referendum for Abyei is mandated for the same date as the referendum on South Sudan, but the Abyei referendum is virtually certain to be delayed. This paper discusses a variety of flashpoints in Parts 3 and 4, and the Abyei conflict, which poses special challenges to future peace and stability, in Part 5.

Facing the post-referendum challenges in the border areas will require a basic level of political will and commitment on the part of borderline state and local actors. It also requires the constructive engagement of national actors in both North and South Sudan, and support from international organizations. Neighbouring African states, African regional organizations, and the international community must act to strengthen government capacity in the borderline states. Capacity building for effective governance should focus on meeting the population's demands for security, delivering a material "peace dividend", and supporting the political process through actions aimed at bringing peacebuilding upstream.

At present, efforts to consolidate a strategy for replacing conflict with cooperation are frustrated by disunity among actors in the two parts of the country, fragmentation of assessment and planning institutions, and the lack of a framework for prioritization. Key stakeholders are pursuing competing agendas based on unilateral political, economic, security, and institutional interests and perspectives. Bilateral and multilateral agencies engaged in each part of the country have set multiple, separate, and often competing programmes without a clear and coherent vision of the needs and priorities.

However, a strategy of cooperation between the two successor states could be based on:

⁴ Nine states physically touch on the assumed borderline between North Sudan and South Sudan (the border has yet to be finally delineated on a map and demarcated on the ground by the Technical Border Committee). However, for political reasons, the NCP and SPLM have agreed to also include Warrab State as a borderline state and have invited its representatives to participate in a meeting of the border states to be convened prior to Referendum Day 2011, maybe in Sinja town.

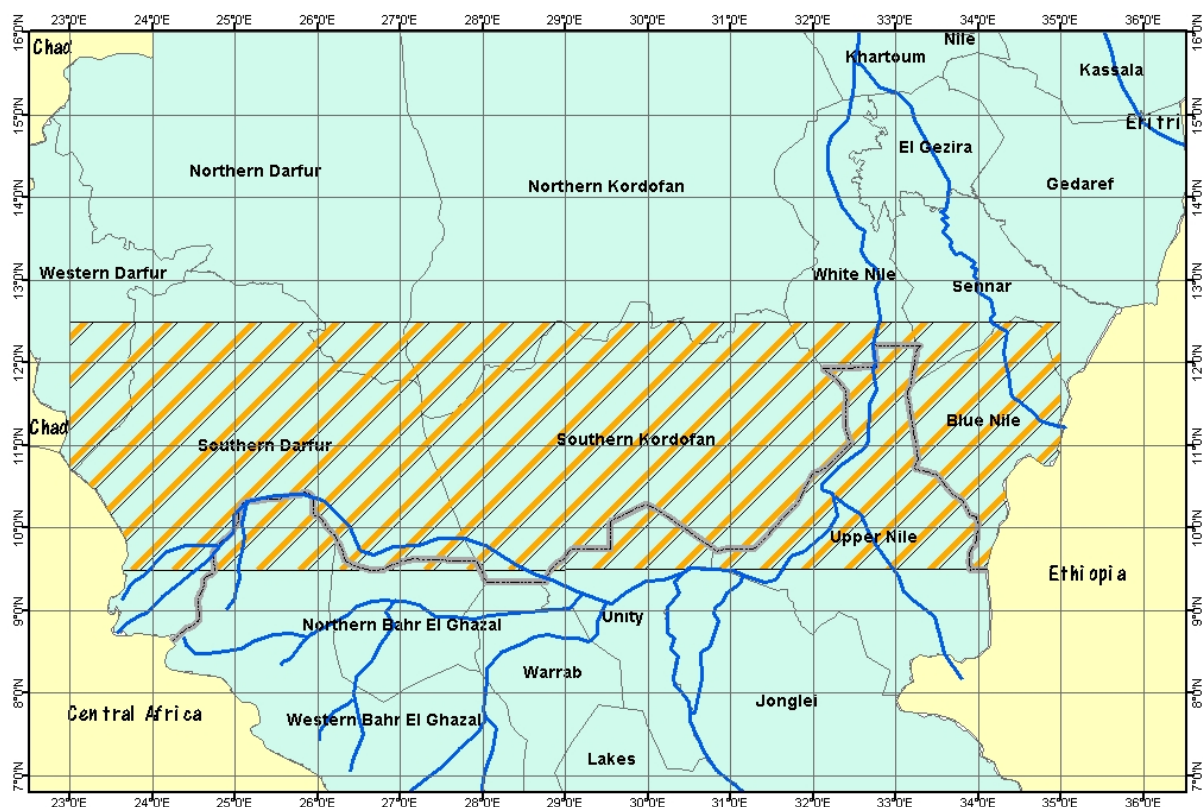
- Early agreement between the two governments on priorities, with a flow of government resources to local communities on both sides of the borderline
- Strengthening the governments of the borderline states in their capacity to support local communities, focusing on priority needs and resolution of local issues
- Rationalizing and enhancing borderline state capacity to provide basic social and economic development services, such as by providing trained personnel to meet urgent reconstruction needs; toward this end, state governments should work with international partners who have capacity and expertise in particular areas
- Working collaboratively with borderline states to enhance community tolerance for ethnic diversity
- More effective and better-supported local leadership teams on the ground in borderline communities on both sides of the dividing line
- Agreement between national authorities in neighbouring countries, particularly Ethiopia and the Central African Republic, on an early strategy with defined and well-sequenced priorities

1.3 General country context and scope of the study

The conflict in Sudan illustrates almost all of the complexities and challenges of failed development. Prolonged colonial rule (1821–1956), excluding the short period of the Mahdiya, left behind an underdeveloped, monocultural economy based on cotton. The Anglo-Egyptian Condominium (1898–1955) introduced three important changes: land laws, the Closed Districts Act of 1922, and the Native Administration Ordinance. These had a lasting impact on the borderline belt and on South Sudan with respect to land use, forms of livelihood, and the social categories that practice the main occupations.

After World War II, at the Juba Conference in 1947, leaders from South Sudan demanded some form of autonomous rule for the South. The northern leaders agreed, but when independence came in 1956, the promise was shelved. Southerners rebelled against northern rule in 1955, launching Sudan's first post-independence civil war. Over the next 17 years, the war cost a half million lives. Southerners earned self-rule in 1972 in the Addis Ababa Agreement, but the arrangement was short-lived. Eleven years later the head of state abrogated the agreement, and war began again.

Continuous fighting between 1983 and 2005 left an estimated 2 million dead. The war also created 4 million internally displaced persons and a half million refugees. One-third of the area of South Sudan is contaminated with land mines. Issues in the borderline belt also bear on the long history of conflict in Sudan. The western part of the belt (see Map 1) is affected by spillover from the continuing war in Darfur. The Three Transitional Areas (TTAs) of Blue Nile, South Kordofan, and Abyei, covering two-thirds of the borderline belt, are of special relevance. They have seen continuing unrest in the decades since independence, with no progress made on addressing the root causes.



Map 1. The borderline states, showing north-south border and tributaries of the White Nile (latitude 9° 30' – 12° 30' N)

Drawn by Eng. Khattab Karra, GIS expert, November 2010.

Blue Nile and South Kordofan have a long history of separate development, arising from the tributary state forms that existed between the sixteenth and eighteenth centuries. The Funj Sultanate (1504–1820), centred at Sinnar, used the Blue Nile area as its backyard for slave hunting.⁵ It conquered the kingdoms of Tegali and Darfur in the eighteenth century, thus prevailing over the eastern and northeastern parts of present-day South Kordofan. Those domains had different customary systems of land rights and practices, although in both cases land access was based on association with a tribal group. Thus the two states have distinct histories, despite being considered together in the Two Areas Protocol of the CPA in 2005.

The governments of North Sudan and South Sudan will face formidable challenges in trying to create stability and continuity in governance. Over the years, religion and ideologies of race, ethnicity, and tribalism have emerged, more sharply in some periods, as factors that define access to social, political, and legal rights. Communities and interest groups that make up the modern state have experienced centuries of exploitative economic interaction. Much of this interaction was, and still is, in the periphery, between riverbank communities, on the one hand, and the western and eastern hinterlands of the River Nile and the Upper Nile communities of South Sudan, on the other.

⁵ For the history of Arab assimilation, see Yusuf Fadl Hasan, *The Arabs and the Sudan* (Edinburgh: Edinburgh University Press, 1967), 90.

An important issue will be the management of seasonal transboundary movement (November to June) by pastoralists and their herds in pursuit of pasture and water sources. Pastoralists will not comprehend a boundary that closes off their seasonal movement to locations they have been frequenting for centuries. Climate change, resulting in desertification, water scarcity, and shrinking pasture land and crop land, is also changing the livelihoods and settlement patterns of both cultivators and pastoralists, increasing competition over resources.

The discovery and production of oil has further aggravated the situation, particularly in the TTAs, as local communities are progressively claiming rights of access and an equitable share of land and subterranean resource endowments. Since 2000, various sources report that the government has deliberately depopulated the oil-rich areas, using violence and threats of armed action to control the population and enable oil firms to exploit new sites.

The conflict has impaired Sudan's relations with its African neighbours, with the larger international community, and with the international financial institutions. Economic sanctions and embargo have intensified Sudan's isolation. However, apart from the Sudan Peace Process, which resulted in the signing of the CPA in 2005, the international community has made only weak attempts to stop the war, resolve the conflict, and incorporate development strategies based on power sharing and wealth sharing. Nor have outside actors focused on the fate of the country after the end of the interim period.

The CPA calls for the National Congress Party (NCP) and the SPLM to jointly organize in 2011 a referendum on self-determination for the people of South Sudan, a plebiscite for the Abyei area, and a popular consultation for Blue Nile and South Kordofan states. The results of these processes and the path pursued afterward will have implications not only for Sudan in Africa, but also for Sudan in the Middle East and Sudan in the Muslim world.

Unlike the events that produced Eritrea, the referendum in 2011 is being held under the auspices of an internationally guaranteed peace settlement, the CPA. However, it leaves many unresolved problems with regional and international implications. These include the return of refugees and internally displaced persons. Also important are issues related to the River Nile waters, environmental and surface resources, and oil and mineral resources, as well as the drawing of an internationally agreed boundary line, which the two partners have failed to put in place throughout most of the six-year interim period.

Central to these contested issues is the oil wealth of Sudan. The borderline states are the main producers of oil and bear most of the negative environmental impact of exploration and production, including the liquid waste known as produced water. Yet these states are also the most marginalized in terms of obtaining an oil-wealth dividend. If South Sudan becomes independent, the oil issue will no longer be a matter of wealth sharing, as it has long been understood, but rather an issue of the *division and ownership* of resources by the two successor states. This affects not only oil but also land, water, minerals, and forest resources that are critical for present and future generations of the people of South Sudan.

The important issue now is to avoid past errors while laying out an objective vision for the future. This process is subject to many uncertainties, as the situation on the ground is changing from day to day. Nonetheless, this paper attempts to contribute to a redirection toward good neighbourliness for the two successor states and a constructive role for regional and international actors under post-referendum conditions in 2011 and beyond.

Part 2: The Borderline Belt: A Problematic Geographic “Dragon Space”

This study takes the borderline belt (BLB) between North Sudan and South Sudan as a geographic and political area of focus. The BLB is a disputed, conflict-ridden zone, subject to special provisions of the CPA. It includes Blue Nile State and South Kordofan State in North Sudan, which are governed by the CPA Two Areas Protocol; the disputed Abyei area, with a protocol specific to it; and five states in South Sudan that are subject to the other major CPA protocols governing power sharing, resource sharing, and security.

Using a visual metaphor, the BLB can be pictured as a “dragon space” because the states that form it take the shape of a Chinese dragon (see Map 2). The dragon’s head faces the Ethiopian Plateau and its tail touches the Central African Republic.

2.1 Population and resources of the borderline belt

The borderline belt encompasses 10 states of the country on both sides of the assumed border separating North Sudan from South Sudan. The five states on the north side of the borderline fall in two sectors. On the east bank of the White Nile River are Blue Nile State, Sinnar State, and White Nile State; on the west bank are South Kordofan State (which includes Abyei) and South Darfur State. Those south of the border are, from east to west, Upper Nile, Unity, Warrab, North Bahr-al-Ghazal, and West Bahr-al-Ghazal. White Nile State to the north of the borderline and Upper Nile State to the south of the borderline are bisected by the White Nile River, which runs from south to north.

The BLB has an estimated length of 1,936 kilometres. Roughly rectangular, it covers three circles of latitude (9°30′ – 12°30′ N). An estimated 1,355 kilometres of this border, 70 percent of it, lies in South Darfur State and South Kordofan State. The BLB has an estimated land area of 436,000 square kilometres, equivalent to 20 percent of the total area of Sudan. The 10 borderline states are home to 13 million people, 33 percent of the total population of Sudan. Average population density is 28 persons per square kilometre, almost double the national average of 15 persons, according to the 2008 census. Over 60 percent of the Sudanese population earn their livelihoods in this region.

According to the 2008 census, the five states on the north side of the borderline are home to some 8 million residents—equivalent to the whole population of South Sudan, and double the population of the four states that face them across the border in the South. The five borderline states of South Sudan contain an estimated 50 percent of the total population of South Sudan. This poses a strategic and security concern for a future successor state in the South, given that half of its population would live north of the sudd and mangroves. Of particular importance are the “head and neck” that protrude from Upper Nile State, almost reaching latitude 12°30′ N. This strip of land adjoins four states in North Sudan, two of which are conflict ridden and well armed.

The borderline belt is rich in natural resources and development potential. It contains savanna grasslands and forest cover, with abundant rivers and lakes. Inland perennial water bodies include Lake Abyad and Lake Kailak in South Kordofan and Lake Kundi and Lake Kalaka in South Darfur. Average seasonal rainfall (June–October) is in the range of 400–800 mm annually.

About 80 percent of semi-mechanized farming in Sudan is in the BLB. The fertile alluvial soils are suitable for many crops, including cereals (sorghum and millet) and oilseed cash crops (sesame, groundnuts, watermelon seeds, and sunflower). The land also yields tree products such as gum arabic from *hashab* tree gardens, ziziphus *nabag*, Balanites Egytiaca *hijleej*, and Baobab *tabaldi*, as well as wild cereals.

In addition, the 10 borderline states provide pasture land for more than two-thirds of the national livestock herd of Sudan. During the dry season that lasts seven months of the year, pastoralists from North Sudan herd their animals across the border to South Sudan. There they meet pastoralists from South Sudan, with their own herds of cattle, goats, and sheep. The BLB is also home to all wildlife and game reserves in Sudan.

In terms of subsoil resource endowments, the BLB states are all active oil producers. In addition to oil, the extensive mineral resources include gold in Kurmuk (Blue Nile State); natural gas, iron ore, and bauxite in southwest Kordofan; and uranium, gold, and copper in Hufirat-en-Nahas (South Darfur State).

Overall, some 80 percent of Sudan's population depends on direct use of natural resources, mostly through the production, processing, and marketing of crop and livestock products. As noted above, resource division would replace resource sharing if the two parts of the country separate. Sudan's people will benefit from this natural wealth only if the two successor states collaborate.

Table 1. Livestock population of the North Sudan borderline states, 2007

	Sinnar	White Nile	Blue Nile	S. Kordofan	S. Darfur	Total
Cattle	1,550,903	3,426,795	4,047,979	4,305,092	4,134,369	17,465,138
Sheep	1,337,186	2,456,574	4,862,496	4,009,027	3,738,044	16,403,327
Goats	1,185,089	2,305,771	3,452,215	2,898,315	2,962,722	12,804,112
Camels	103,831	31,361	189,862	269,706	99,169	693,929
Total	4,177,009	8,220,501	12,552,552	11,482,140	10,934,304	47,366,506
State % of BLB in North Sudan	8.8%	17.4%	26.5%	24.3%	23.0%	100%

Source: Courtesy of Data Centre, Ministry of Animal Resources and Fisheries, Khartoum, 2009. Totals and percentages calculated by author.

Note: The TTAs carry 50.8 percent of BLB livestock in North Sudan. South Darfur and South Kordofan carry 47.4 percent, but they account for 70 percent of the borderline length. There is also an equine population in the zone, but data were not available.

2.2 Demarcating the borderline

The agricultural policies of the past century, both colonial and post-colonial, laid the basis for the present borderline problems. These problems have been aggravated by the discovery of oil in the BLB. The two CPA partners are aggressively competing over rights of access to land and resources. These contradictory interests help explain why the NCP and SPLM have been dragging their feet, leaving property rights and land ownership issues to fester without solution throughout the six-year interim period.

The CPA called for precise demarcation of the north-south border as it existed on 1 January 1956. Establishing the exact borderline was considered important not only for the purpose of confirming the respective territories of the North and South, but also for implementing other provisions of the CPA such as a population census, voter registration, and the redeployment of the Sudan Armed

Forces (SAF) and Sudan People's Liberation Army (SPLA). The CPA "pre-interim" period, January–July 2005, was the time frame originally envisaged for border determination. In September 2005 a Technical Border Committee (TBC) was established by Presidential Decree 29 and supported by national and international experts. However, the TBC only started functioning in mid-2006, one year later than foreseen in the CPA.

The founding decree stipulated that the TBC shall demarcate the borderline between South Sudan and North Sudan as it existed on 1/1/1956. It directed the TBC to consult all relevant maps, drawings, and documents; visit all border areas between North and South Sudan and overlapping areas; consult tribal leaders and civil administrators; and solicit internal and foreign expertise if necessary. However, the fundamental challenge for the TBC has been that no map exists that accurately depicts the north-south boundary at independence. In addition, the committee has encountered multiple hurdles, including procedural disputes and accusations of political interference. By the end of 2010, the committee had not yet finished its work, with five sectors causing delay; three of them involve South Kordofan State, White Nile State, and Upper Nile State.

2.3 Strategic importance of the borderline belt for the two successor states

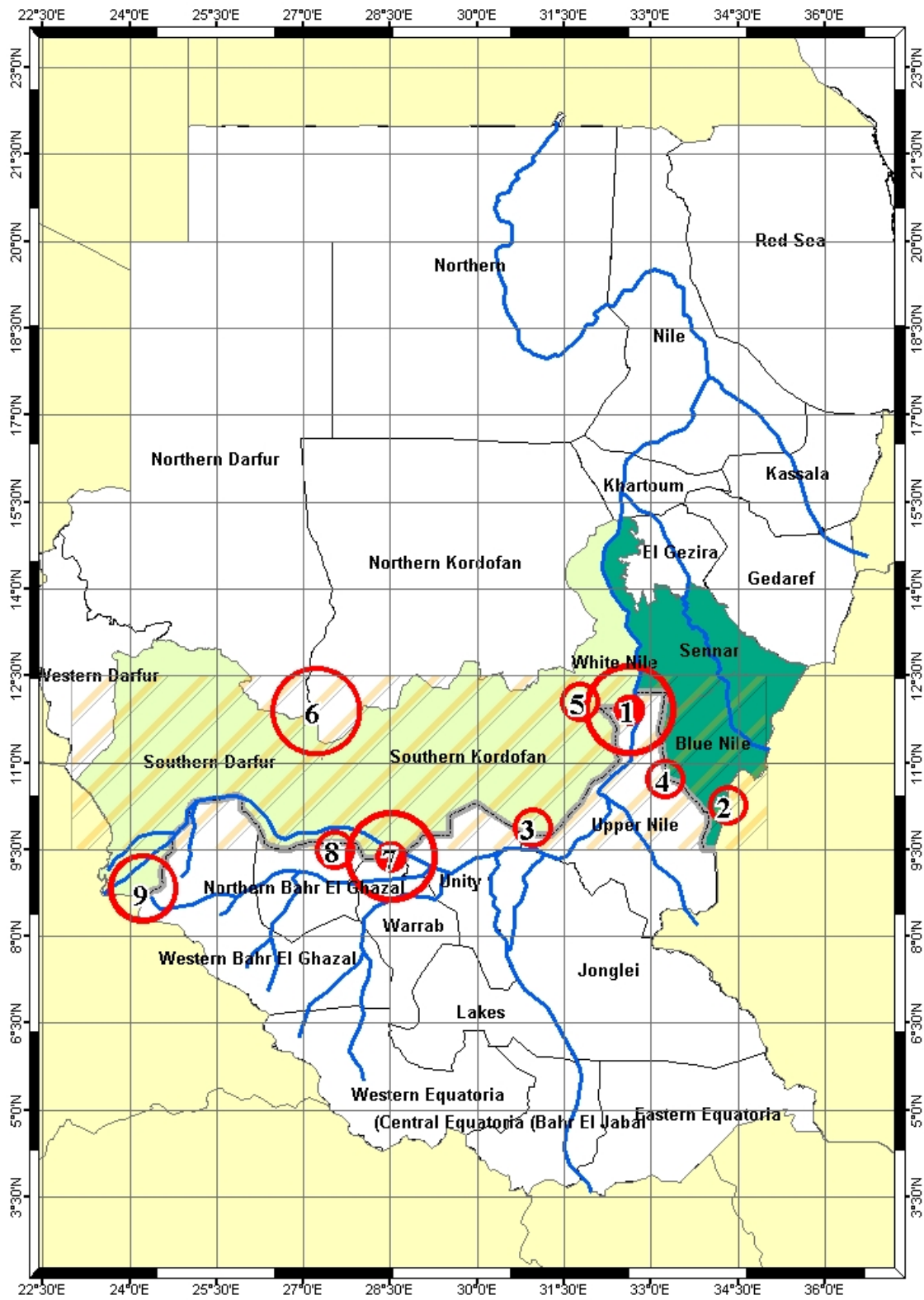
Drawing an international border for a country, or internal boundaries for major constituent units such as provinces or states, is a prerogative of the sovereign domain. In the case of Sudan, the country's international borders are still subject to disputes, both large and small: with Egypt in the Halayeb Triangle, with Kenya on the Aleeme sector, and with Ethiopia on the fertile Fashaga sector. Likewise, there are multiple internal boundary disputes that have not been resolved.

The BLB touches on two neighbours of Sudan, Ethiopia in the east and Central African Republic in the west. They each have a common border with both North and South Sudan. The BLB is also significant for additional countries because of the River Nile, which is of obvious strategic concern to Sudan's neighbours, especially Egypt, Ethiopia, and Uganda. If South Sudan chooses to separate, it would become the second most water-rich country in Africa, after the Democratic Republic of Congo.

The BLB is the meeting ground for the majority of tributaries of the White Nile River (WNR), except for Bahr-al-Jabel, which arises from Lake Victoria. The WNR carries an estimated 50 percent of the annual discharge of the River Nile, most of which is generated by natural precipitation within the borders of Sudan. The tributaries of the WNR feed the major surface water bodies in South Sudan and recharge water-bearing sedimentary basins. The water-divide lines determine their flow. By contrast, the Blue Nile River does not run through South Sudan. It arises from the Ethiopian Plateau and is joined by three rivers: the Atbara, Dinder, and Rahad. They jointly contribute an estimated 48 percent of the annual discharge of the River Nile.

The signature of a controversial agreement on River Nile waters in Uganda on 15 May 2010, and the establishment of a commission including seven upstream states but neither of the two downstream states (Sudan and Egypt), is a negative signal to South Sudan in the Great Lakes Region.

Resource-related conflicts thus relate to water as well as to land and petroleum. The study identifies nine potential hotspots and flashpoints (see Map 2) where resource-driven disputes are ongoing or could arise, either internally or with neighbouring states. Four of the identified hotspots involve the South Kordofan border with other borderline states.



Map 2. Hotspots in the borderline belt

Table 2. Hotspots in the borderline belt

Location on Map 2	Meeting point	Oil block(s)	Latitude x longitude
Circle 1	BNS/SINS/UNS/WNS/SKS	Blocks 8 and 7	33° E x 12° N (on WNR)
Circle 2	BNS/Ethiopia	Gold	34° E x 10°30' N
Circle 3	SKS/Unity/UNS	Blocks 5 and 7	31° E x 9°40' N
Circle 4	BNS/UNS	Block 3	34° E x 9°30' N
Circle 5	SKS/WNS/UNS	Block 7	32° E x 12° N
Circle 6	NDS/SDS/NKS/SKS	Blocks 17 and 6	27° E x 12° N; 27° E x 11° N
Circle 7	SDS/SKS/ABY/Unity	Blocks 2, 4, and 6	28°–29° E x 9°20' N
Circle 8	SDS/SKS/ABY/NBGH	Block C	27° E x 9°30' N
Circle 9	SDS/WBGH/CAR	Copper	24° E x 9°30' N

Note: Circles 2 and 9 refer to subterranean resources other than oil, so they do not correspond to specific oil blocks. ABY = Abyei area; BNS = Blue Nile State; CAR = Central African Republic; NBGH = North Bahr-al-Ghazal State; NDS = North Darfur State; NKS = North Kordofan State; SDS = South Darfur State; SINS = Sinnar State; SKS = South Kordofan State; UNS = Upper Nile State; WBGH = West Bahr-al-Ghazal State; WNS = White Nile State.

Source: Coordinates produced and tallied by author, assisted by Eng. Khattab Karrar, projecting data on maps.

Blue Nile State (BNS), whose capital is Demazeen town, is located in the mid-southeast of Sudan, bordering Ethiopia to the east, Upper Nile State to the west, and Sinnar State to the north. It has a rich savanna climate with annual rainfall ranging from 400 mm in the north to 1,000 mm in the south. Administratively, BNS is divided into five localities: Demazeen, Roseries, Bau, Gissan, and Kurmuk. The total land area is 45,844 km² (11 million feddans, of which 9 million is arable land). The total population is 750,000, and 75 percent of the population is rural. Sociocultural identity is tied to tribal and ethnic networks.

South Kordofan State (SKS), including the Abyei area, is home to 40 percent of the population of the borderline states. It is a contending party in three of the five border disputes that remain unresolved in this late phase of the work of the Technical Border Committee. These concern the “head and neck” of Upper Nile State, the Kaka segment (with Upper Nile State), and the Abyei-Hijleej segment (with Unity State). In South Kordofan, the NCP and SPLM-Nuba, as primary stakeholders in the CPA, are driven by contradictory interests in every aspect of political life, diminishing the prospects for post-conflict reconciliation. Implementing the relevant CPA protocols is the number one challenge for SKS and Abyei. If people’s interests and aspirations are frustrated, they will refuse to accept the relevant protocol and may revert to violence.

One significant potential hotspot, where ethnic disputes are common, is described in this study as the White Nile “sugar bowl” (see Part 3). It consists of border enclaves where four states in the North (South Kordofan, White Nile, Sinnar, and Blue Nile) adjoin Upper Nile State. Irrigated sugarcane plantation agriculture in White Nile State, mechanized rainfed agriculture, mobile livestock herds, and oil exploration on both sides of the White Nile River in the five states are all factors contributing to conflict in this area. It is anticipated that when separation occurs, these disputes could become strategic security concerns for both North and South.

2.4 Main actors on land rights and border demarcation issues

Since land rights and border conflicts are rooted in the contradictory interests of stakeholders, the overriding need is to involve all of the main actors in an effective peace process. The main actors in the TTAs can be grouped into four broad categories⁶:

⁶ The categorization of stakeholders is based on 22 group discussions and personal interviews held by the author in the TTAs, 18–26 May 2006, in 12 Nuba villages, 2 Daju villages, 2 Ngok Dinka villages, 3 settled Misseriya villages, and 3 camps of Misseriya pastoralists.

1. The governing partners, that is, the NCP and SPLM, who hold contradictory positions regarding land rights. The NCP says that the land belongs to the state, while the SPLM position is that the land belongs to the local community. The governors of SKS and BNS, aligned with the national parties, are foremost in this category; they are supported by senior administration officials (directors general of line ministries).
2. Large agricultural investors (companies and individuals), which have obtained from the national government leasehold ownership of vast land tracts to the detriment of other prospective users. This category includes representatives of the General Farmers' Union, as well as its local chapters, and the 70 members of the Federation of Private Agricultural Companies. Although their interests differ to some extent, these actors all subscribe to the view that land belongs to the state. They therefore do not object when the government of Sudan uses force to evict those in category 4 below, that is, rural peasants and pastoralists, from demarcated and nondemarcated agricultural schemes.
3. The Federation of Pastoralists, tribal leaders, and paramount chiefs. These local leaders represent category 4 below, that is, rural settled cultivators and transhumant pastoralists.
4. Settled peasant cultivators (village residents) and transhumant agro-pastoralists. Rural and poor, but practicing two different livelihoods, they have both shared and conflicting interests. In this context, they are grouped together because they are both marginalized by the constellation of interests in categories 1 and 2. Ordinary peasant farmers in their smallholdings believe that they are the rightful owners of the land. They hold that the government of Sudan is inherently biased against them, consistently favouring the interests of large and medium investors. The pastoralists share this view, believing that they are targeted by unjust taxes and laws. On the other hand, in the competition for land use rights, the pastoralists also believe that the peasants, along with more powerful economic actors, are trying to squeeze them out.

Given the common and conflicting interests of these various actors, social relations at the community level impose constraints on the peace process that have to be addressed. Four factors stand out:

- The unwillingness of dominant groups (categories 1 and 2) to recognize full rights of land access by the rural poor (category 4). The peasants and pastoralists perceive this as a denial of basic economic and social equality.
- Low levels of self-identification with a national state among the groups in category 4, resulting in weak vertical legitimacy. A tendency toward sociocultural identification with specific groups also leads to weak horizontal legitimacy and low levels of mutual trust.
- Fragmentation of stakeholder constituencies due to diversity of interests of various groups and community-based organizations. Groups that have greater organizational capabilities are able to shape public policies and programmes to their advantage.
- Weak organizational capabilities of grassroots organizations representing the poor. This calls for steps to increase the capabilities of the poor to act as agents of change at both the individual and group levels. Building participatory constituencies requires time and resources as well as clear mandates.

2.5 Five disputed sectors

Political leaders in the NCP and SPLM tend to blame their failures to complete the task of border demarcation on disagreements within the Technical Border Committee. It is true that there is disagreement within the TBC over several sectors of the border. But the issue is more than technical; it is a highly politicized dispute between the two partners to the CPA. To ensure that the TBC would remain ineffective during the first five years of the interim period, the two partners withheld funding and disbursements, leaving the TBC helpless to carry out its mandate.

Five sectors are identified as problematic in the TBC's report to the presidency in 2010. All of them are within the borderline belt. But the sensitive issues in each of them can only be resolved by the top political authority. The disputed sectors include:

- The Jabalain-Joda sector, at the point of convergence of White Nile and Upper Nile states
- The Jabal Migeinis sector, where the boundaries of three states meet (White Nile, Upper Nile, and South Kordofan)
- The Kaka town sector between Upper Nile and South Kordofan states
- The Abyei area, where South Kordofan State borders four other states: South Darfur, Warrab, Unity, and North Bahr-al-Ghazal
- Hufirat-en-Nahas, a disputed sector further south where South Darfur State meets West Bahr-al-Ghazal

Part 3: Border Issues between White Nile and Upper Nile States

Population groups in White Nile State (WNS) practice both sedentary and pastoralist livelihoods. Sedentary tribal groups include the Seleim and the Ahamda, who live in the southern part of the state, along the west bank of the White Nile River (al-Salam Locality). Smaller sedentary tribal groups include the Nuba and Nilotic groups in the central parts of WNS. A large pastoralist group is the Sabaha tribe in Jabalain Locality. They live along the east bank of the White Nile, south of Rabak, the capital city of WNS. They were dislocated southward in the mid-1970s from the central plains of the White Nile by the expansion of government-owned sugarcane plantations. As a result of this dislocation, the Sabaha came in close contact with other pastoralists which whom they had not had contact in the 1950s and 1960s.

Groups such as the Hassaniya, Husonnat, Shanabla, Diwaihiya, and Shiwaihat are agro-pastoralists who live along both banks of the White Nile in the northern parts of WNS. They combine farming activities with herding, cheese making, and fishing. For them as well, the expansion of sugarcane plantations adversely affected range and pasture availability.

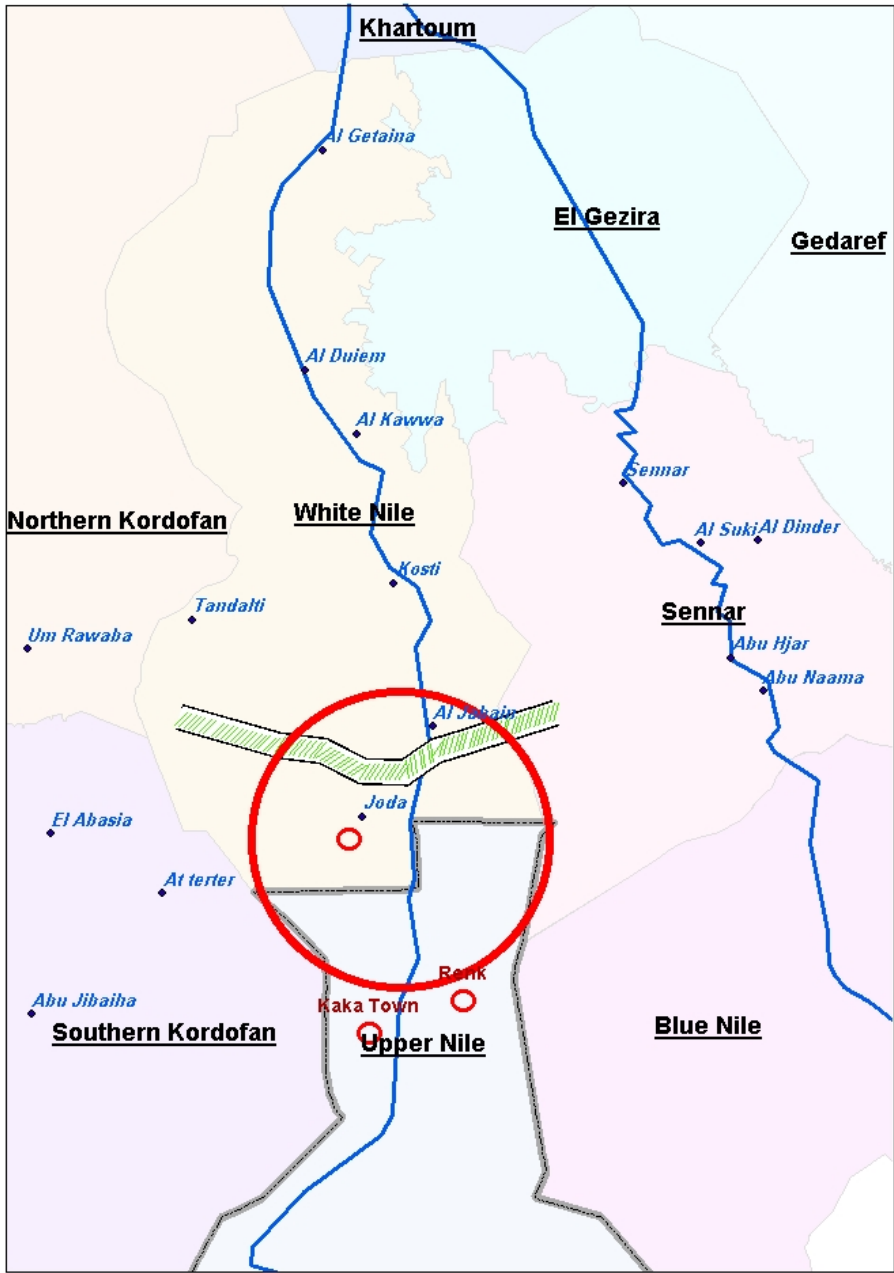
3.1 The roots of local disputes

Police records in White Nile State show that land-related disputes occur among sedentary farmers, among pastoralists, and between pastoralists and farmers. There are multiple factors that contribute to transforming disputes into conflicts in WNS, including:

- Ambiguous boundaries between agricultural schemes
- Land possession and land claims that are not duly supported by legislation or recognized authorities
- Expansion of farming land at the expense of pasture land for free-range grazing
- Trespassing by pastoralists on cropped land
- Acute water shortage in the dry-season months, coupled with too few water access points such as water yards and *hafeers* (manmade reservoirs that collect rainwater for use in the dry season)
- Too many herds at the same time in the same place. This causes overgrazing of limited pasture, resulting in undernourishment. It triggers fierce competition among pastoralists, leading some to venture with their herds into farmed land.

Police records in WNS show many examples of violent conflict, most often involving only knives. For example, in May 1999 there was a conflict between the Seleim tribe and the Bargu-Silaihab in al-Salam Locality (south of Kosti), caused by trespassing of livestock on the cultivated land of Bargu-Silaihab sedentary farmers. In Kababiesh in Diwaim Locality, the cause was competition over grazing pasture. Firearms were used, and 29 men and one woman were involved. In al-Salam Locality, again, the Seleim tribe clashed with the Berti tribe over rainfed farmland, involving six men and one woman.

There also cases of dispute over access to watering sites, such as in two locations in al-Salam Locality in 2003. In these cases, the executive and local authorities intervened to resolve the dispute out of court. In the Alkhaleef area, Jabalain Locality, there has been a chronic dispute since 2004 over access to watering sites. Land grabbing of water sites is sometimes aimed at being able to sell fodder on the banks of the White Nile to pastoralists at times of peak demand, as, for example, at Zilait, Gourri, Um-Jarr Island, and Um-Kandada Island.



Map 3. "Head and neck" of Upper Nile State as an example of a potential hotspot

3.2 The White Nile “sugar bowl”

The White Nile sugar bowl is located just north of the “cap” atop the “head and neck” of Upper Nile State (see Map 3). It includes Jabalain Locality and al-Salam Locality, both areas with resource-based disputes driven by competition over pasture and access to water points. Pastoralists are unable to access the White Nile riverbanks in order to water their livestock when access is blocked by pasture grabbers. Sugarcane plantations owned by the Kinana and Sabina companies further complicate the situation. Beginning in the 1970s, Kinana dislocated pastoralists southward from Jabalain. The Sabina sugarcane plantation currently in development (240,000 feddans) will dislocate pastoralists in al-Salam Locality to the western pastures in South Kordofan State, where they will have difficulty accessing the White Nile, some 40 kilometres away, to water their livestock.

If South Sudan chooses to separate on Referendum Day 2011, the White Nile sugar bowl will pose a strategic predicament for both successor states. This strip of land, while technically south of the borderline, thrusts north into an area rich with resources that the North considers vital. At the same time, it will form a vulnerable part of South Sudan, as it is surrounded by four states (Blue Nile, Sinnar, White Nile, and South Kordofan) that are heavily armed and could overrun it in a few hours. Upper Nile State will be, therefore, a security concern to both the successor states. This issue will be particularly sensitive if the referendum vote shows that the people of Upper Nile State chose to stay with North Sudan. Unfortunately, the CPA is silent on the question of recognition for individual state votes. The prevailing understanding is that 60 percent of the cumulative vote in the 10 states of South Sudan will determine the future for all the people of South Sudan.

3.3 The Abilang Dinka dispute in Renk County and Jabalain Locality

The potential conflict in this area is further complicated by chronic tribal conflict between the Abilang Dinka of Renk County and several agro-pastoral groups claiming Arab descent. This intersects with the work of the TBC, although it affects only a few square kilometres of territory, with differing claims based on a gazette from 1920 and a set of maps. South Sudan TBC members believe the border should either be redrawn per the 1920 gazette or drawn slightly further north, from Debat al Fukhar in the east to Qoz Nabak in the west, following a 1955 agreement between the then governors of the two territories. Renk leaders, however, are upset that the scope of the TBC deliberations is so limited and have called for the committee’s work to be disregarded.

Part of the native territory (*dar*) of the Abilang Dinka in Renk County is the northernmost point of South Sudan. It lies east of the river in Upper Nile State. Immediately north of the current border is Jabalain Locality in White Nile State, home to a number of ethnic groups, including agro-pastoralists such as the Seleim, Sabaha, Ahamda, Rufa’a, and Nezi. In addition to pastoralist life, the area has a large expanse of arable land that has been developed as mechanized agricultural schemes. The government-driven expansion of mechanized farming that began in the 1970s contributed to the dislocation of pastoralists, disrupted migratory routes, and eroded customary land rights of communities on both sides of the border, including in Renk and Jabalain.

The following figure as factors in the dispute:

- The shared border between the two counties (running approximately 50 km east to west) remains disputed.
- The Abilang believe pastoralists from the North were party to deliberate government schemes to move this border further south. According to this narrative, the pastoralists would gain access to valuable grazing areas and arable land while the government gets oil and local tax revenue.
- Abilang Dinka elders cite periodic raids, during which their people were killed and settlements burned, that accompanied a series of southward border shifts from Rabak to Khor Ayuel to Jabalain to the current location near Wonthau.

- Dinka elders and local government officials assert that the border should instead lie near Khor Ayuel, some 90 km north of the area under review. As in other disputed portions of the border, local officials argue that historical grazing agreements allowing seasonal access to Arab pastoralists were later reinterpreted as actual boundary changes. They claim that provincial officials later formalized changes without consent of Abilang community, and land was subsequently settled by others who previously exercised only secondary rights.
- Community leaders in Renk assert the primacy of tribal boundaries, relying on local knowledge of the *dar* rather than maps or historical gazetting. They argue that traditional tribal lands stretched north of Jabalain, currently administered by White Nile State.
- Today, northern pastoralists regularly migrate south into the Renk area in the dry season in search of grazing land. Likewise, Dinka communities occupy areas north of the border. Many seek goods and services, medical care, and education in the North; the majority of commodities are sold by northern merchants.
- Maintaining cross-border movement is important to populations in both North and South. While this trans-boundary relationship has been amicable since the CPA, there is anxiety on both sides that it could be damaged following the referendum, should the border be hardened.

Part: 4 Border Issues Involving South Kordofan State

South Kordofan State, redrawn on the basis of the CPA, has an estimated area of 144,000 km². Three-quarters of the state is arable land, plains largely composed of a sand-mud mix known as *goz* and dark cotton-clay soils. The rest is mountainous. During the rainy season, from June to September, the plains are fertile, with plenty of surface water that is wasted (not harvested). During the rest of the year, they are dry. The plateau of the Nuba Mountains is 48,000 km², with the majority of the Nuba Mountain population living in the central districts of Northern Jabal and Southern Jabal.

According to the 2010 census, the total population of SKS is estimated at 2 million people in 300,000 households, residing in 17 localities and 40 administrative units. They are mainly rural settled cultivators and agro-pastoral communities (85 percent) and transhumant agro-pastoralists who also practice smallholder dry farming (6 percent). The population is from diverse ethnic and tribal origins.

Eleven percent of the land area, with at least 370,000 people, is estimated to be under the control of SPLA-Nuba after 20 years of conflict with the SAF. Political instability in South Kordofan, a primary actor in the transitional zone, has spillover effects that jeopardize stability in other regions in both the North and the South. As the six-year interim period is ending, it is time for a revitalized effort to ensure peaceful coexistence, harmony, and unity among the people of SKS. Most importantly, revenues from petroleum resources need to be reinvested in sustainable development, including agriculture, water resources, and solar energy.

4.1 The shifting administrative boundaries of South Kordofan

Internal instability in SKS and the economic crisis of the national state have led to frequent changes in the state's administrative boundaries. The famous name Kordofan, as an administrative designation, dates back to the period of Turko-Egyptian colonial rule (1821–1885). Following the fall of the Mahdiya state at the close of the nineteenth century, the Anglo-Egyptian Condominium Powers seized this area in 1898 and created Kordofan Province in 1903. The administrative boundaries and land area, 383,000 km² as of 1903–1906, then underwent several changes, particularly after independence in 1956.

The Anglo-Egyptian Condominium, under the mandate of the “Closed Districts Policy Act” of 1922, created Nuba Mountains Province (in Arabic, Mudiriyyat Jebal al-Nuba) and designated it a “closed district”. Subsequent laws and ordinances, including the Local Government Act of 1951, People's Local Government Act of 1971, and Regional Government Act of 1981, continued to consider the northern and southern parts of Kordofan (region or province) as constituting one administrative unit. In 1974 the military regime of General Nimeiri divided Kordofan Province into two provinces. North Kordofan Province, whose centre was al-Ubayyidh, had an area of 239,000 km² of mostly marginal dryland. South Kordofan Province, with Kadugli as capital city, had an area of 144,000 km².

In the early 1980s, as the central government moved toward decentralization and devolution of powers to the local level, a regional system was put in place. Kordofan Region was created, or rather reunited, under one regional governor in 1980, with al-Ubayyidh as the capital city. Nonetheless, Kordofan Region remained divided into the provinces of North Kordofan and South Kordofan that had been created in 1974. The only difference was that en-Nahood was chosen as the capital of North Kordofan Province. Kadugli remained the capital of South Kordofan Province.

In 1989, the National Salvation regime again sought to create new administrative borders to further administrative decentralization, now called “federal governance”. Under this policy, formalised in the Federalism Act of 1991, South Kordofan's boundaries remained the same as they had been in 1980/81. In February 1994, however, there were additional changes. The Tenth Presidential Decree stipulated

the redivision of Sudan into 26 states; 16 states in the North would replace the six provinces that had existed since independence. This time, Kordofan was divided into three states: North Kordofan State, with an estimated total land area of 183,000 km²; West Kordofan State, with 118,000 km²; and South Kordofan State, with 82,000 km².

On 19 January 2002, the Nuba Mountains Cease-Fire Agreement was signed and South Kordofan was redefined to fit that agreement. Article II redefined the “Nuba Mountains” to include “the whole Southern Kordofan and the province of Lagawa in the Western Kordofan”. As the area of SKS is 82,000 km² and that of Lagawa is 10,568 km², the area covered by the cease-fire agreement is 92,568 km². The estimated total population, based on 1993 census projections, was 1,096,566 for SKS and 73,000 for Lagawa Province. The agreement redefined the administrative borders, with regional autonomy for South Kordofan, but also created a quasi-autonomous state form that is yet to be implemented.

After 10 years under the Tenth Presidential Decree, the Protocol on the Resolution of Abyei Conflict and the Protocol on Powersharing were signed on 9 January 2005 between the government of Sudan and SPLM. These two protocols abandon the stipulations of the Tenth Presidential Decree and effectively dissolve West Kordofan State, which was created by that decree in 1994. They also impose a return to the boundaries of South Kordofan Province as of its creation in 1974. The dissolution of West Kordofan State and the annexation of Southwest Kordofan to South Kordofan/Nuba Mountains increased the area of the ‘new’ South Kordofan State by 75 percent. It is currently 144,000 km², the 62,000 km² of the west sector being added to the 82,000 km² of the former South Kordofan.

In terms of population, the “recreated” South Kordofan is now home to 2 million people, according to the 2010 census. This has implications for ethnic balance, as the Nuba population is reduced to an estimated 30 to 40 percent of the total population instead of the 50/50 split in the former SKS. In economic terms, the result is that the new South Kordofan could become a real economic force and a strategic power for building the unity of the new Sudan if governance and resource-sharing issues are resolved fairly.

4.2 Disputed sectors and border delineation

South Kordofan shares borders with eight states: four in North Sudan and four in South Sudan. Excepting Blue Nile State and Sinnar State, in the east sector of the BLB, and West Bahr-al-Ghazal State, further away in the west sector, all states in the borderline belt, northern or southern, share borders with South Kordofan. As a result, South Kordofan is dotted with disputed sectors and wracked with land disputes and conflict, even though there is no land scarcity. Population density is a mere 10 inhabitants per square kilometre and the gross land/population ratio is 17 feddans (8 hectares) per person, including men, women, and children. An average household of six people could have up to 48 hectares of land if the resource were equitably managed.

The failure to define stable administrative boundaries comes not from land scarcity but from the location of South Kordofan as a central state in a country undergoing disintegration. Oil-related and pasture-related disputes are entangled with unresolved border delineation disputes that the TBC has been trying to address for six years. The sectors where border disputes are most acute seem to coincide with those where exploration has found petroleum reserves of commercial quantities.

The main locations in SKS where border disputes need to be resolved by the TBC are (a) Kaka town sector, where South Kordofan in North Sudan meets Upper Nile State in South Sudan; (b) the Jabal Migeinis sector, where White Nile State and South Kordofan State in North Sudan meet Upper Nile State in South Sudan; and (c) the Abyei area, a disputed domain where conflict is playing out at the local, national, and international levels (discussed in Part 5).

4.3 Kaka town sector: Dispute between South Kordofan and Upper Nile states

The Technical Border Committee has been divided over the border between Upper Nile and South Kordofan states with regard to the Kaka town sector. Kaka town is a small river port on the west bank of the White Nile, north of Malakal, near the border between Upper Nile and South Kordofan states. In 1922 the British colonial administrators of Sudan instituted the Closed Districts Ordinance, effectively dividing North Sudan from South Sudan. The ordinance severely restricted movement and trade from North to South, as the White Nile was the only access route. As a result, communities in southeast Kordofan – the eastern parts of present-day South Kordofan – could not obtain goods and services from North Sudan. Instead they looked to the South and the WNR.

To address this problem, a 1923 Sudan government gazette transferred administration of Kaka town, including management of its port, from Upper Nile Province to Kordofan Province (now South Kordofan State). This gave Nuba settled communities a supply route and Seleim pastoralists easy access to water sources for their livestock. Since then, communities from South Kordofan have collected seasonal harvests of gum arabic in the area. Large-scale mechanized farming has also been developed through the granting of leasehold permits by the government.

The North Sudan members of the TBC claim that this administrative order of the Condominium authority 90 years ago amounted, in practice, to a permanent boundary change. The TBC members from South Sudan disagree, arguing that these arrangements did not constitute a formal change of boundary.

4.4 Migeinis mountain sector: A three-state dispute

Jabal Migeinis is a mountain located at the point where northwest Upper Nile State meets White Nile State to the north and South Kordofan State to the west. It is the subject of a border dispute involving all three states.

The current boundary of Manyo County, inhabited by the Shilluk people in Upper Nile State, adjoins al-Salam Locality in WNS, inhabited by Seleim agro-pastoralist cattle herders. The Seleim regularly collect gum arabic and other seasonal harvests and claim the area as part of their traditional *dar*. In addition, the Migeinis sector also has considerable agricultural potential as well as oil exploration in block 7. It is the oil that seems to be a primary motivation behind TBC claims and counterclaims.

However, as the TBC mandate is grounded in administrative boundary delineation and demarcation, there is little chance that traditional *dar* claims will prevail over official documents. In the course of the committee's discussions, South Sudan members of the TBC have stated that if North Sudan (NCP) members would prefer that the committee expand its mandate and deliberations to include 'historical tribal boundaries,' they would be happy to do so. They think that South Sudan would undoubtedly stand to benefit in several disputed locations, including the oil-rich Hijleej fields, a sector that South Sudan claims belongs to the Nuer people.

Part 5: Border Issues Specific to the Abyei Area

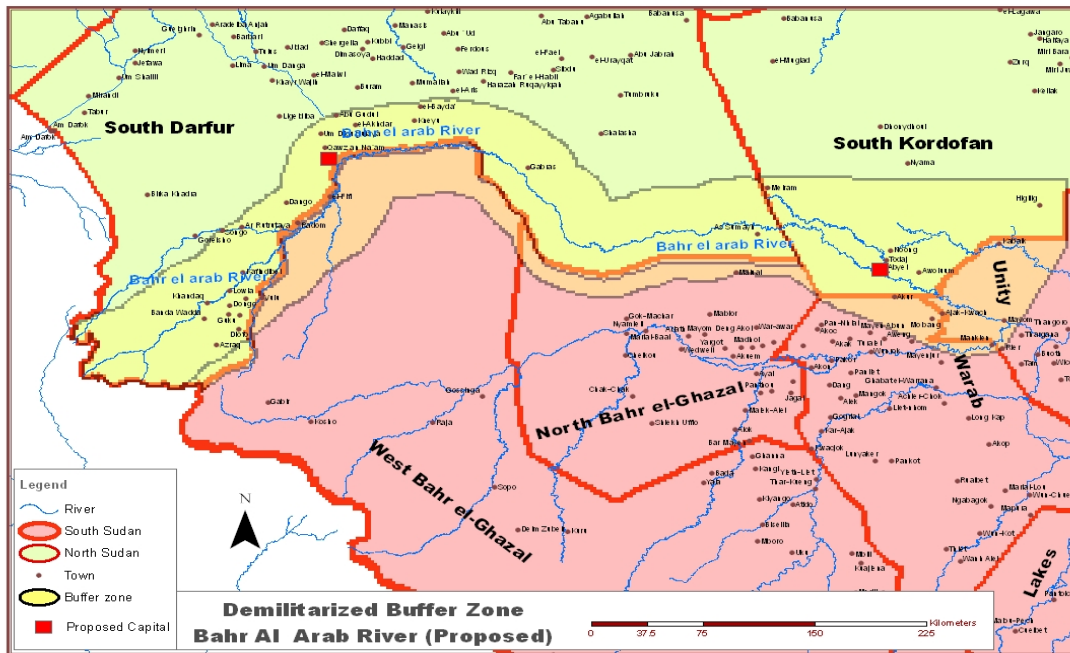
5.1 Bahr-al-Arab River

The Bahr-al-Arab (literally “River of the Arabs”), or Kiir River as it is known by the Ngok Dinka, flows west to east through Darfur, forming the border between South Darfur and West Bahr-al-Ghazal states. It then passes through the Abyei area and Unity State, converges with Bahr-al-Ghazal River, and flows into the White Nile (see Map 4).

The river’s resources are utilised by the Malwal Dinka of North Bahr-al-Ghazal and the pastoral Rizaigat of South Darfur, as well as by the Ngok Dinka and Misseriya of South Kordofan. All see access to the Bahr-al-Arab as essential to their livelihoods. The relations between these groups have been marked by violent conflict for generations. In South Darfur, the Bahr-al-Arab, historically the customary boundary between the Malwal Dinka and the Rizaigat Arabs, has been the focal point of repeated disputes and negotiations.

Historical records do not provide a clear picture of this border. The most pertinent boundary decision was in the 1924 Munroe-Wheatley Agreement, which aimed in part at reducing intermittent conflict between the Rizaigat and the Malwal. Following a series of earlier shifts in the Dinka-Rizaigat tribal boundary, this agreement decided that the *dar* of the Rizaigat should extend to roughly 14 miles (22 km) south of the river. This eventually became the provincial boundary.

North Sudan members of the TBC contend that the Munroe-Wheatley Agreement was a binding document that changed the provincial boundary. South Sudan members of the TBC disagree. They argue that the hybrid nature of the agreement, which detailed rights and restrictions for both groups rather than conferring outright ownership, left the official status of the border area open to interpretation. As in the case of Kaka, the TBC members from South Sudan argue that the agreement did not sanction a formal border adjustment or transfer of land to Darfur Province, but was merely intended to harmonize the grazing and land use rights of two groups. Furthermore, they say, the procedures required for official change—including approval by the British governor general—were not implemented at that time. Referring to traditional boundaries, the local Malwal Dinka claim that the river is the true boundary, even if it is not possible to gain official recognition of that fact. Regardless of where the line is finally drawn, the least contentious scenario would involve affirmation of continued river access and grazing rights in the contested area for both groups.

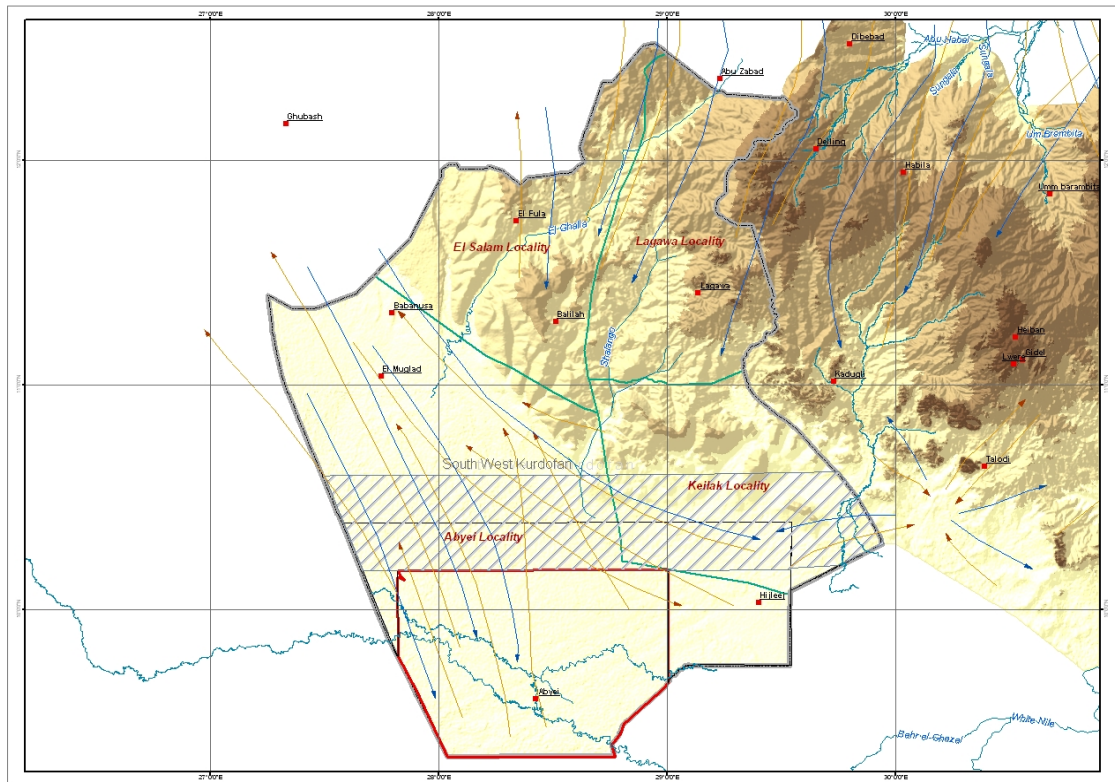


Map 4. Bahr-al-Arab, a future buffer zone

Courtesy of GIS specialist, FAO Library, 2006, Khartoum, Sudan.

5.2 The Abyei area: Five decades of dispute

Abyei is a disputed enclave in South Kordofan (see Map 5). It has been inhabited by Ngok Dinka and Misseriya since the middle of the eighteenth century. Traditionally, the Ngok Dinka are short-distance agro-pastoralists and the Misseriya are long-distance transhumant agro-pastoralists. Abyei may hold the key to the country's future stability, particularly because of its oil wealth, which is important to both the NCP and the SPLM. For the Ngok Dinka and the Misseriya, in contrast, what matters are the surface land resources, particularly water, free-range pasture, and forest resources. Both communities have become more dependent on partially settled livelihoods over the past four decades as pastoralism has become increasingly difficult due to desertification and land degradation in the North and persistent conflict in the South. Over five national censuses, the percentage of the population that is nomadic has declined, from 13 percent in 1956 to 10 percent in 1973, 1983, and 1993, and 8 percent in 2008.



Map 5. The Abyei area according to the Permanent Court of Arbitration award on 22 July 2009

According to Francis M. Deng, the leading Ngok Dinka scholar, oral history and historical documents date the first contact of the Ngok Dinka with Humr Arabs to 1745. But there are conflicting claims about the historical periods in which these groups occupied the disputed territory. The Ngok Dinka claim that their territory extended to the areas that the Humr Arabs now occupy. They call the Humr administrative centre, Muglad, by the indigenous name of Denga, after a Ngok leader named Deng who was supposed to have had that town as his headquarters. The Humr, one of three Misseriya tribal divisions, contest this territorial claim and argue that the area belonged to the Nuba before the Humr captured it. Their claim to the land extends to areas that have been occupied by the Ngok for seven to 10 generations.

Dr. Deng adds:

Finally, it should be made obvious to all concerned that peace between the North and the South will never materialize as long as the problem of the Ngok Dinka is not resolved. And the only amicable solution must be one that unequivocally identifies the Ngok with their kith and kin in the South, but recognizes their vital role as a conciliatory link or bridge with the North, whether within a unified or a divided Sudan. Whatever the political and administrative arrangements, the Ngok and the Homr will remain neighbors who must either coexist peacefully or confront each other violently with repercussions for the whole country. To reverse the metaphor of Chief Deng Abot, who compares Abyei area to the eye that is so small but sees so much, so many eyes, local, regional, national, and global are now focused on Abyei as either a peaceful meeting ground or a potential source of persistent conflict between North and South. ... It would be a tragic irony if they became the victims rather than the beneficiaries of North-South reconciliation. But worse, no peace settlement between the North and the

South is achievable or sustainable without a satisfactory arrangement for the Ngok Dinka.⁷

5.3 Outlines of the current Abyei territory puzzle

In a protocol of the CPA, drafted and mediated by the United States, the Ngok Dinka were given the right to decide whether the territory of the nine chiefdoms of the Ngok Dinka would remain in the North or merge with the South. The boundary of this area was to be determined by a special Abyei Boundaries Commission. But that commission's 'final and binding decision' on where the Ngok chiefdoms were located in 1905 was rejected outright by the NCP when it was presented to the presidency on 14 July 2005. With the future of Abyei uncertain, tensions began to rise, particularly after 2008. Thus the "Abyei territory puzzle" became the key unresolved border dispute, accentuated by the presence of oil in the area.

Despite the peace agreement between the North and South, the Abyei dispute remained a source of deep division within the shaky coalition government of the NCP and SPLM. Bloody clashes erupted over control of Abyei's oil-rich land. During heavy fighting between the SAF and the SPLA in May 2008, an undetermined number of people were forced to flee. The clashes led to suffering and soured talks underway between the U.S. government and the NCP-led coalition government of national unity in Khartoum. Following this confrontation, local ethnic feuds escalated between Misseriya and Ngok Dinka pastoralists who continue to serve as proxy forces for the SAF and the SPLA, respectively, as they did during the 20 years of war (1985–2005) that preceded the CPA.

5.4 Principal actors in the Abyei dispute

The main contenders facing off in this dispute are (a) the NCP and the SPLM; (b) the SAF and the SPLA; (c) the Misseriya and Ngok Dinka pastoralists, as local clients of the NCP and SPLM. Sudanese political parties in North Sudan are not united on a national programme of opposition to the NCP, nor will they be able to face a unilateral declaration of independence by the SPLA. They are, therefore, not considered principal actors in resolving the Abyei puzzle.

The oil exploration and production companies play a role behind the scenes. They are aligned with the governing partners (NCP and SPLM) and related armies who protect oil interests. Some 40 Sudanese service companies work as clients of the oil companies, some of them undercover, and support their interests. In addition, an array of external actors are operating in Abyei territory. They include United Nations (UN) agencies, international humanitarian organizations, international monitors commissioned under chapter 6 of the UN Charter, and Joint Integrated Units of the SAF and SPLA, as provided in the CPA.

The North Sudanese political and military actors, the NCP and SAF, fear that if they concede Abyei territory they will lose its huge oil reserves forever. They also stand to lose other contested resource-rich areas south of the controversial 1/1/56 borderline, including other oil blocks as well as gold and copper in Hufirat-en-Nahas. The NCP thus will do everything in its power to keep Abyei under its control.

The Permanent Court of Arbitration (PCA) award on 22 July 2009 was accepted by the SPLM and the NCP but rejected by the Misseriya. It is likely that the NCP will eventually have to abide by the PCA verdict, which would mean either suppressing the Misseriya or abandoning them to face the consequences of violating the CPA and the PCA award. On the other hand, the SPLM and SPLA, while publicly disavowing a return to war, are also desperate to hang on to Abyei oil and ready to provoke the North into confrontation.

⁷ Francis M. Deng, "Abyei: The Ambivalent North-South Border," posted on the Sudan Online Discussion Board/English Forum (<http://www.sudaneseonline.com/cgi-bin/sdb/2bb.cgi?seq=msg&board=8&msg=1079779093&rn=8>).

As noted above, the Ngok Dinka claim that their territory historically extended to areas that the Misseriya now occupy. They fear the widespread stockpiling of small arms by the Misseriya. The Misseriya-Humr, for their part, contest this claim, arguing that the area belonged to the Nuba, from whom the Humr captured it. Their claim over the land extends into areas that have been occupied by Ngok Dinka for seven generations. The Misseriya fear that the majority of Ngok Dinka may vote for Abyei to join the South. They worry about traditional grazing land being cut off in the long term. Despite the explicit inclusion of Misseriya livestock grazing and watering rights in the 2005 peace agreement, they know very well that the SPLA will not allow them to cross into South Sudan to herd livestock with their arms in hand. The Ngok Dinka see this as “hands on trigger”, and this mistrust is shared by the SPLA.

Although the concerns of the Misseriya are justified based on their survival needs, the PCA award does not take into account their rights to property ownership, investment, and shared governance on an equitable basis in Abyei territory. Both Northern and Southern politicians are manipulating the desires of the Misseriya, who do not seem to understand the final and binding nature of the PCA award.

5.5 With referendum delayed, no resolution in sight

As the referendum on self-determination for South Sudan draws near, the NCP and SPLM have acknowledged that slow implementation of the CPA over the past six years has made it impossible to hold the Abyei referendum concurrently with the one for the South. Negotiations between the NCP and SPLM on post-referendum issues, mandated by the African Union and chaired by former South African president Thabo Mbeki, have not been able to persuade the CPA partners to agree on a timeline for the Abyei plebiscite or on Abyei border demarcation. Therefore, the Abyei Protocol cannot be implemented, and Abyei boundaries cannot be demarcated on the ground despite being delineated on paper by the PCA.

As the Sudan government is the entity charged with demarcation, it remains the government’s duty, as a member of the United Nations, to carry out its international obligations as stipulated in the UN charter or face the consequences of inaction. Without the plebiscite for Abyei and implementation of the PCA award with respect to Abyei area boundaries, the Abyei Protocol must be pronounced a “dead document”. In addition, supplementary negotiations in Ethiopia that included representatives of the Misseriya and Ngok Dinka failed to seriously examine acceptable/amicable solutions that could uphold the substance of the CPA and at the same time avoid a return to violence. Despite additional talks held in Vienna in November, prospects for a sustainable resolution remain bleak.

The stakes are high. Despite fielding the largest peacekeeping mission in the world to the region, the international community, including the UN Security Council, appears unable, unwilling, and/or powerless to keep armed violence at bay.

If the Abyei question is to be resolved, NCP and SPLM senior politicians and military personnel must immediately adhere to signed agreements. The basic requirements for the PCA decision to be implemented are that the Misseriya must accept the PCA award and allow border demarcation, while the Ngok Dinka must allow the Misseriya to reside in areas where dry-season water sources can sustain Humr livestock. The major actors must realize that their local clients, the Misseriya and Ngok Dinka, as primary stakeholders, feel increasingly excluded and restless. Senior politicians and military personnel must stop exploiting local tensions. Instead, they should encourage the educated and tribal elites and local leaders in Abyei territory to remember that the two communities have long coexisted. They can continue to do so if they are willing to share local resources equitably and recognize their mutual rights to participate in local governance.

Part 6: Concluding Remarks

Failed development has been the central driver of the multiple crises that have plagued Sudan. The specific issues revolve in most cases around equitable resource access and ownership rights, especially in the borderline belt. Plans, programmes, and projects that could address development issues in this region are governed by the relevant CPA protocols, as well as by federal- and state-level policies of decentralization, privatization, and liberalization, strategies that have brought little benefit to the population of the rural areas. If South Sudan separates, the immediate issues will focus on resource division and ownership, but the underlying issue of underdevelopment will remain unchanged.

After the referendum, the national authorities, borderline states, and local stakeholders will face three immediate challenges with respect to security and development. The first challenge is to identify activities that best serve stated objectives in each local context. The second challenge is for the two successor states to agree on strategies to replace long-standing confrontation with cooperation and collaboration through the creation of effective leadership, coordination, and accountability. The third challenge is to launch rapid assessment and planning commissions for the establishment of a coherent strategy in a fast-moving post-referendum environment. These tasks will require support and cooperation from a diverse range of national and international actors. There are, however, no quick fixes for achieving and sustaining peace.

The CPA correctly emphasizes rights-based access to land and equitable sharing of natural resources as key issues. The two successor states should cooperate to address local resource-related disputes—especially those identified as hotspots in this paper—in order to collaboratively promote the development of borderline belt communities. This implies the need for environment-friendly social action at the BLB state level. In keeping with the letter and spirit of the Abyei Protocol, the Two Areas Protocol, and relevant annexes and amendments, policy instruments and social action need to take a regional approach to creating action plans and projects. These should include conflict mitigation pathways and awareness-raising campaigns that promote peaceful coexistence. State governments should also take concerted action to combat illicit arms supply, trafficking, and distribution (beyond possession of ordinary shotguns for personal protection).

National and state governments and local authorities should take steps to strengthen human development through the provision and upgrading of water, health, and education for agro-pastoralists and farmers. Food insecurity is a major cause of lawlessness, so sector programs are needed to build infrastructure for agricultural markets and feeder roads that connect market towns. Chronic shortage of safe water for humans and animals, associated with environmental degradation, is likewise a major factor driving conflict. Development planning and monitoring with respect to water, food, education, and health should take place at the local level, with support from UN agencies and international and local nongovernmental organisations.

BLB state governments should consider developing an action plan that encompasses conflict prevention and mitigation, development (water, health, education, food), and control of environmental degradation. All these are essential for peacebuilding and peaceful coexistence. Conflict prevention should include awareness-building, information, and education campaigns. Efforts to extend basic social services should give priority to pastoralist groups in rural areas where violent encounters frequently occur, particularly the White Nile sugar bowl and the Abyei area.

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