

PART III

Nation-Building of the New State

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The Nation-Building Project and Its Challenges¹

Christopher Zambakari

Introduction

On 9 January 2005, the signing of the Comprehensive Peace Agreement (CPA) brought an end to the brutal civil war that engulfed Sudan before its independence in 1956. The CPA established the Interim Constitution of Southern Sudan enacted in 2005, which formed the semi-autonomous Government of Southern Sudan (GOSS) in the southern part of the Republic of Sudan. This will effectively be transformed into the Government of the Republic of South Sudan on 9 July 2011. The root causes of the war included disputes over resources, the role of religion in the state, self-determination, the distribution of power, and the institutional legacy of colonialism. The ensuing conflict devastated a significant part of Africa's largest country and deprived Southern, Western, and Eastern Sudan of stability, growth, and development. Consistent with the mandate of the CPA, in January 2011, South Sudan effectively voted to secede from North Sudan. The new nation in the South is set to be inaugurated on 9 July 2011. More than two million people have died and four million have been uprooted due to the civil war. The signing of the Comprehensive Peace Agreement in 2005 was the beginning of a long march to peace. Since the Referendum on self-determination has been successfully held, it is necessary to think about the project of nation-building that lies ahead. This essay is divided into three sections: Sudanese colonial state,

political violence, and political reform. In the first section, the chapter focuses on the institutional legacy of Indirect Rule in South Sudan. In the second section, attention turns to issues driving political violence and grievances of the marginalised areas. The dilemma will be illustrated by looking at the surge in political violence in the Disputed Regions² as reflective of the dilemma that faces both North and South Sudan in a post-referendum era. In the last section of the essay, I will argue that the way out of the current predicament in the Disputed Areas, which lies in building a more inclusive political community in the North and South that respects unity in diversity, is contained in the conceptual framework known as the New Sudan, as articulated by the Sudan People's Liberation Movement/Army (SPLM/A). I will further argue that a successful nation-building project will depend on how the Government of South Sudan (GoSS) and the Government of Sudan (GoS) manage to build a more inclusive state, which addresses the citizenship question.

Sudan: An Overview

Sudan, known as 'bilad-al Sudan', or land of dark people, is the largest country on the African continent, 2,505,810 sq km, and approximately one-third of the size of the United States of America, or about a million square miles—equal in size to the United States east of the Mississippi River. According to some estimates, the country has 500 different ethnic groups, speaking 130 languages (Garang 2005). Sudan has a rich cultural heritage as a cradle of African civilization. Historians call it the corridor between Egypt and Central Africa. It shares a border with nine States: Egypt to the north, the Libyan Arab Jamahiriya to the north-west, Chad and the Central African Republic to the west, the Democratic Republic of the Congo to the south-west, Uganda to the south, Kenya to the south-east, and Eritrea and Ethiopia to the east. The land has an ancient history, dating back to 2,600 BC. The country was subdivided into kingdoms and Sultanates that occasionally fought for supremacy at various periods. After the British occupied Egypt in 1882, they took over Sudan from 1898 and ruled it in conjunction with Egypt until 1955. Khartoum, the capital city,³ is located at the confluence of two rivers: the Blue Nile, carrying with it the rich residue from Lake Tana, passing through the highlands of Ethiopia; and the White Nile that is a source of life for inhabitants along its path, flowing from Lake Victoria along the Kenya, Uganda and Tanzania borders.

Sudan is rich in mineral wealth with an abundance of crude oil, natural gas, gold and chrome, and agricultural products such as long staples of cotton,

sugar, gum Arabic, wheat, maize, sorghum, and various tropical fruits. In addition, it also has large cattle ranches throughout the country and exports surplus of cattle, sheep and camels to the Arabian Gulf countries. In 1956, Sudan became the first country, administered by Great Britain, to become independent after World War Two. ‘The Sudan’s Civil War, also the first in postcolonial Africa, began, with the Torit Mutiny, a few months before independence was attained on January 1st 1956” (Johnson 2003:1). Since its independence, Sudan has been ruled by a series of unstable parliamentary governments and military regimes. The current Republic came into existence in 1916, during the early part of the Condominium Rule. This arrangement of the joint British and Egyptian government ruled Eastern Sudan from 1899 to 1955. Capturing the transition in Sudan from one political rule to the next is quite fascinating, yet challenging. Much has been written in the past about the cultures of various ethnic groups, land and history of the country, so time will not be spent on those subjects. On 9 January 2011, South Sudan exercised its right to self-determination as enshrined in the provisions of the CPA and voted overwhelmingly for secession from North Sudan (SSRC 2011; UNSC 2010).

The challenges facing the new state in the south are enormous. Among the pending issues that have yet to be resolved are the fate of Abyei, Southern Kordofan and Blue Nile. Second, concern remains for many Sudanese living in the Disputed Border Regions as well as Southerners in North Sudan and Northerners based in South Sudan (UNSC 2010). The situation is explosive in the Disputed Border Regions. This urgency prompted UN experts to warn that if the problem in Abyei is not brought under control it ‘could derail the implementation of the peace agreement that ended the country’s civil war’ (UN News Centre Home 2011). Third, Sudan’s long north-south border remains undemarcated, with progress slow on fixing the boundaries. Current negotiations are based on colonial-era maps that reflect the border as it stood at Sudan’s independence in 1956; but with the frontier crossing oil and mineral rich areas, the issue is contentious. Fourth, debt/legal treaties have not been settled. Sudan’s crippling debt, estimated at US\$36.8 billion, of which US\$30.8 billion was in arrears at the end of 2010 (The World Bank 2011), remains a major concern in the North as well as in the South. Southerners say Khartoum spent the cash it received from international lending institutions on arms during the 1983-2005 civil wars, and thus, the South should not shoulder the liability of repayment because it never benefited from the loans. Fifth, building a southern identity is work in progress—without a common northern enemy, many fear political fractures within the South. Sixth, there is

a failure to integrate militia after a process of militarisation, disarmament, and reintegration of former combatants. Leaders in the South must work to bring together often disparate groups, including opposition forces and those outside the mainstream SPLM movement to form a true inclusive political community.

Citizens without a Home: The Plight of IDPs and Refugees

The violence in Sudan has already cost the lives of millions, and there is no sign that violence has ended. Instead, in the period shortly after the referendum, hundreds of people have been killed in clashes in the South and in the Disputed Regions. Sudan Tribune, USA Today and IRIN reported that in March 2011, more than 100 people were killed in two separate clashes involving the Sudan People's Liberation Army (SPLA) and 'armed elements identified as loyal to renegade groups operating in the two states of Greater Upper Nile' (IRIN 2011b; Sudan Tribune, 2011; USA Today 2011). The months of January and February were no less violent since the Geneva-based organisation, Small Arms Survey, reported that more than 200 people were killed when Lt. Gen. George Athor, a dissident Sudan People's Liberation Army (SPLA) commander, took up arms after losing in the governorship election in Jonglei State (Small Arms Survey, 2011). The problem is exacerbated by two other matters, which complicate the situation in South Sudan further: Internally Displaced Persons (IDPs) and Refugees returning from neighbouring countries or from outside of Africa altogether. A look at UN statistic reveals the magnitude of the problem.

Table 1: Numbers of IDPs and Refugees in Sudan

Number at a Glance (DCHA and OFDA, 2011)		Source
IDPs ⁴ in Sudan	In Darfur: 1.9 million In S. Sudan: 612,452 In N. Sudan: 1.7 million ⁵ In E. Sudan: 68,000 Total: 4.28 million	UN-November 2010 OCHA ⁶ -November 2010 UNHCR ⁷ -December 2009 OCHA-October 2010
Sudanese Refugees	From Darfur: 275,000 From Southern Sudan: 138,270 Total: 413,270⁸	UNHCR-January 2010 UNHCR-February 2009
North-South & Three Areas Returnees October 30, 2010 to February 8, 2011	IDPs: 2 million Refugees: 330, 000 Total : 255, 623	UNHCR-November 2010 OCHA/RCSO ⁹ -February 8, 2010

Source: OCHA 2010, OCHA/RCSO, UN 2010, and UNHCR 2009-2010

The South Sudan Relief and Rehabilitation Commission (SSRRC) reported that 21,000 people are stranded in deplorable living conditions in IDP camps around Khartoum. These people sold property and businesses off when it was announced by the Government of South Sudan (GoSS) that they should return to the South. In the case of Abyei, the region that connects South Sudan to North Sudan, violence has already cost hundreds of lives. The UN staff in Abyei suggest that more than half the population has left the town, with the number of displaced ranging from 20,000 to 25,000 (DCHA and OFDA 2011; IRIN 2011a, 2011b).

Last, the number of South Sudanese living in the North ranges from 1.5 million to 2 million and a large number will not return to the South due to the difficult living conditions in the South and current instability in the region. These are the realities as they stand: proliferation of ethnic violence, a Disputed Border Region pending consultation, millions of IDPs stranded throughout the country and over half a million refugees yet to find a permanent home. In addition to the numerous challenges facing the South, the most pressing issue that it will have to resolve should it decide to solve the issues fueling the ensuing violence, is the question of citizenship.

In order to conceptualise the violence occurring in Sudan, one must first and foremost understand the issues that led to the violence and continue to sustain the cycle of violence over time. The main issue that links Côte d'Ivoire, Nigeria, Liberia, Sierra Leone, Ethiopia, Somalia, Burundi, Rwanda (Mamdani 2001c), Democratic Republic of Congo (Mamdani 2001b, 2011; Nzongola-Ntalaja 2004, 2006), Uganda, Kenya, and South Africa, to the event that has led to the breakup of Africa's biggest country, Sudan, is that of citizenship and nativity (Beshir 1968, 1975; Deng 1997, 2010; Harir 1994; Idris 2001, 2005; Mamdani 2009) – a question of who belongs and who does not belong (CODESRIA 2003). Who is a native and indigenous to the homeland, and who is foreign, alien or non-native in a tribal homeland? These questions centre on the legitimacy to have a native authority to advocate for one's right. They revolve around the issue of belonging and the rights and entitlements that accompany civil citizenship. Every post-colonial African conflict has revolved around the question of citizenship.

Today, Sudan is the defining example of the failure to reform the colonial system and build an inclusive polity. To illustrate the point and the difficulty in building a more equitable society that engages in a peaceful nation-building that is democratic, transparent, and inclusive of the diversity within the country, I will present the case of an Ethnic Administrative Division in South Sudan: the one-county-one-tribepolicy (Zambakari 2011:42-43). In

doing so, I hope to bring the study of South Sudan into the mainstream study of post-colonial Africa, along with the challenges that most African countries face and the dilemma of unity in diversity.

Problems of the Sudan: North and South

The twentieth century was a period in human history replete with never-before seen violence. One cannot help but ask: What is the reason behind the proliferation of violence in the post-colonial Sudan? Is it that violence is embedded in Sudanese cultures? If the kind of violence taking place after independence from the late 1950s is not revolutionary, counter-revolutionary or even anti-colonial, how does one make sense of this new kind of violence? Let us first explore the grievances that led to the signing of the Comprehensive Peace Agreement to frame the largest problem and turn to the specifics by looking at the politics of county creation in Southern Sudan and how that is laying the groundwork for future conflicts.

On 9 January 2005, the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of Sudan (GoS) signed a peace agreement called the Comprehensive Peace Agreement (CPA), which ended the conflict in Southern Sudan that had been going on since 1983.¹⁰ The CPA was the outcome of the so-called Machakos peace process, which began in July 2002 (Brosché 2007:2). It was composed of six partial agreements that have been signed by the two parties. The Agreement included important stipulations for South Sudan to achieve the goal of self-determination for the people through a referendum organised in 2011. The signatories to the CPA came to the realization that South Sudan had been continuously dominated by North Sudan (Nyaba 2010). Resources were not allocated equally between the regions. Power was highly centralised in the hands of a few in Khartoum. To cite one case, the process of Sudanisation of civil service, which took place shortly after the Juba Conference of 1947, resulted in only six out of 800 posts going to Southerners (Bassiouni 2010). The history of South Sudan, along with other marginalised areas, is one of political, social, and economic oppression (Brosché 2009; Deng 2006; Harir 1994; Wai 1973). Thus, the CPA set out to correct the imbalances through power-sharing, decentralisation of authority, equal allocation of revenue from oil between the North and the South. More important, the CPA included the provision for a referendum on the self-determination of the South to be held at the end of the interim period.

The interim period has seen development in South Sudan as a result of the wealth sharing provision which allocated 50 per cent of the revenue from oil to the Government of South Sudan. The area of reform of national and local

institutions of governance, however, has been contradictory as the London School of Economics' report showed (LSE 2010). According to the CPA too much centralisation of power in Khartoum was part of the problem of Sudan; so decentralisation became a de facto solution. In Southern Sudan the government experimented with decentralisation only to return to a highly centralised system. At the local level, the government policy was to enact a legislation called the Local Government Act in 2009 which was seen as a way to delegate power to the local institutions. However, this policy too is tainted by something familiar in Sudanese history, the mode of rule adopted by British strategists to govern Sudan. This was an administrative mechanism characterised by a duality in law which translated into parallel structures, one governing those in the urban areas, and another system governing the peasants in rural areas. It was a policy which enabled British colonial administrators to divide up the majority of peasants into hundreds of smaller minorities and effectively deny them the political rights to mobilise or act as a majority. The next section looks at the consequences of this way of organising the mass in the countryside.

Ethnic Administrative Division – One-County-One-Tribe

Today, the South consists of ten states: Central Equatoria, Eastern Equatoria, Jonglei, Lakes, Northern Bahr el Ghazal, Unity, Upper Nile, Warrap, Western Bahr el Ghazal and Western Equatoria. According to a report by the London School of Economics on the dynamics of conflict in Sudan, the case study that illustrates the tendency for a proliferation of states, counties, and homelands is best seen with the Eastern Equatoria State (EES), which had two main districts: Torit and Kapoeta. Kapoeta is home to the Toposa and Didinga. Kapoeta was the first to subdivide into three counties: North (Didinga), South (Buya), and Eastern (Toposa/Nyangatom). Torit subdivided into three more counties: Magwi (Acholi and Madi), Ikotos (Dongotona and Lango) and Lafon/Lopa (Lopit and Pari) (2010).

Today, Eastern Equatoria has eight counties, and this number is increasing. The division is not arbitrary or accidental but reflects the reality on the ground, local and national politics above and real grievances at the local level. The capital of a county is located in the dominant tribe's homeland, which gives the tribe both political representation and access to resources. The most important resource is land. Government representatives are recruited from home areas. This method of ruling and organising the mass of peasantry is not unique to Sudan. It is, in fact, one that is fairly common in Africa.

The creation of Ethnic Federalism, a constellation of tribes with corresponding local governments can be seen in the case of Nigeria, which has a provision in its constitution, called the Federal Character,¹¹ in addition to the Ethiopian constitution,¹² which mandates that each tribe has a homeland or 'one-county-one-tribe rule (Haile 1997; Zambakari 2011:42-43). Uganda has an institution devoted to the management of the mass of peasantry in the rural area called the Ministry of Local Government. Sudan has copied this mode of governance, and through the Local Government Act 2009, created a hybrid system incorporating a Customary Law and Council into Local Governance. This is an institutional legacy from the British mode of rule in Africa, Indirect Rule, which functioned on a dual system: one governing the urban city dwellers and another for the peasants in the countryside. Even when done with the intent of satisfying certain disenfranchised groups, this policy produces enormous violence and instability within a country. It pre-empts the creation of a true inclusive state and focuses on a mode of governance which produces many smaller 'nation-states' within the larger state.

The division is built on certain assumptions. It is argued by proponents of this continuous subdivision that the political map must follow the cultural map of a region at the national level and at the county level. African countries that adhere to this policy also rely on ethnic quotas to fill positions in government, in federal institutions, in universities and in the armed forces. This raises a series of questions about the qualification for those positions and the unintended consequences of the policy itself. How does the state identify who can and cannot apply for jobs in state institutions? What are the criteria used in recruiting for these positions and how does the state achieve its objectives without turning citizenship into an ethnically-defined membership in a native homeland? The real problem is that cultural and political boundaries should coincide and that the state should be a nation-state – that the natural boundaries of a state are those of a common cultural community (Mamdani 2005).

Mamdani has made this observation in a number of places with regard to other African countries, and the crisis that ensues as various groups seek to have representation by having a tribal homeland. Mamdani writes, "For no matter how much we redraw boundaries, the political crisis will remain incomprehensible until we address the institutional – political – legacy of colonial rule" (Mamdani 1998, 2001b, 2005, 2011). As this paper was being written, the Lopit and the Pari had filed for new counties, claiming that they could no longer coexist. This is not confined to Eastern Equatoria alone.

Today, there are demands in Western Equatoria, Bahr el Ghazal, Central Equatoria, and Juba (the capital of South Sudan) to create counties based on ethnicities, and each ethnicity should be entitled to its homeland.

With a country as diverse as Sudan, one must ask: where does this process of continuous political fragmentation end? There is one problem which is a direct outcome of this particular mode of organising a population: political violence. What happens when IDPs and refugees return to South Sudan? Where will they live? Should they be confined to already demarcated states with respective counties, or should they also fight to have their own counties? How about immigrants? What happens to immigrants who do not have a county? If the right to land and political representation follows an ethnic system whereby everyone has a homeland what happens to immigrants who have neither a homeland in Sudan, nor representation in the form of a Native Authority?

The answer lies in a particular form of the state that has emerged in Africa after independence. The reality of the post-colonial state in Africa can be summarised as follows: in an increasingly integrated global economy, people move to wherever they have the chance for a better life. A dynamic economy moves people, mostly labour migrants, outside their 'tribally defined homeland' and forces them to cross over different boundaries. However, the colonial state penalizes especially those that are most dynamic, those who respond to favourable economic conditions across political boundaries, those who go in search of employment and better living conditions outside their countries. It brands them as aliens, non-indigenous, foreigners (Mamdani 1989, 2001b, 2005; Nzongola-Ntalaja 2004). The cases of the Banyarwanda in Uganda and in Eastern Congo, the Ghanaians in Nigeria, and the Burkinabe in Ivory Coast are illustrative of these tendencies in the post-colonial period. In each of the mentioned cases, violence has been the outcome, as those defined as natives and indigenous confront those branded as non-natives and non-indigenous.

In the next section, I will discuss the colonial state in Africa and the relevance of its study as it applies to South Sudan. In doing so, I hope to show that the development in Sudan is not unique to Sudan but a problem that affects all African countries. Last, I will look at the reform of that state and draw relevant lessons from a country where a successful reform has been undertaken, war brought to an end, setting an example that inspired the signing of the CPA. The same lesson has applied where mass violence has been stopped, such as in Mozambique. The Mozambican National Resistance (RENAMO) was involved in some of the most heinous crimes in Mozambique, cutting off hands, maiming, burning villages, deliberately

targeting civilians, kidnapping children and forcing them into carrying out brutalities against their own parents and friends. The US State Department estimates that one million Mozambicans perished during the civil war (The US Department of State 2010).

In Mozambique, like in South Africa, violence was brought to an end through political reform. Today RENAMO sits in Parliament and not in prison. The peace agreement signed in 2005 between the Sudan People's Liberation Army/Movement (SPLA/M) and the National Congress Party (NCP) was also modelled on similar understanding, whereby there was no military victory but a stalemate between the adversaries. Both parties agreed with the signing of the Comprehensive Peace Agreement (CPA) that no one was to be held accountable for the atrocities committed in Sudan during the civil war.

The key in every case has been political reform of the state, prioritising political reform over criminalising opponents. At the core of the political reform is the recognition that we must not see all public violence as criminal. It was only when the South Africans decriminalised political adversaries, expanding the realm of political membership, that there was an opening for dialogue, which resulted in the transformation ushered in by a post-apartheid South Africa. That same political imagination was at work in the dialogue which delivered the CPA in Sudan, and the violence came to an end.

The African example of how to resolve the citizenship question, manage diversity within unity, and reform the colonial state can be seen with South Africa's transition from apartheid to a democratic system. This, more than the lessons of the European Nation-State, is relevant for containing non-revolutionary violence based on political exclusion in South Sudan.

Making Sense of Non-Revolutionary Violence in Africa

Those who study violence distinguish between two dominant forms: violence which makes sense, and violence which does not make sense. In an attempt to come to terms with the consequences of a bloody century, which are still being manifested in the twenty first century, scholars group revolutionary violence, anti-colonial struggles during the decolonisation phase, as meaningful and humane. This kind of violence is said to be progressive.

The second kind of violence is said to be reactionary and regressive; thus, it is counter-productive. This latter kind is meaningless violence which seems to defy reason and therefore lies outside the scope of understanding. It is devoid of meaning. The former is a legacy from the European Enlightenment, which

viewed politically organised violence as a necessary component of progress. The latter is linked to the process of state formation in Africa. It is an outcome of the mode of rule used to colonise Africa in the nineteenth century.

Columbia's leading scholar on African Politics, Mahmood Mamdani, has called the latter type of violence that is said to be devoid of meaning, non-revolutionary violence (Mamdani 2001a). Progressive violence or 'good violence' is also associated with the legacy of Karl Marx, who famously professed that 'revolution is the midwife of history' (Mamdani 2007:7). This tradition finds its genesis in the French Revolution. Since the French Revolution, violence has been understood as essential to progress. On the other hand, the Marxist paradigm failed to account for non-revolutionary violence – violence which does not remain class specific but transcends both class and ethnicity. Its failure was in its inability to understand the kind of violence that pits the impoverished and disempowered against each other. With non-revolutionary violence, the lines of battle are not drawn by wealth and poverty, but by differences not economic in nature (Mamdani 2001a:1).

In Africa, we see a significant reduction in interstate conflict but a proliferation of ethnic conflicts within states. This development can be seen in Sudan. Whereas the CPA brought the war between the North and South to an end, the South has been plagued by mass inter-ethnic violence. The Northern and Western regions, Nuba Mountains, Abyei, and Southern Kordofan, all have been engulfed in a series of violence which cannot be characterised as revolutionary or counter-revolutionary. This kind of violence is non-revolutionary. The outcome of non-revolutionary violence easily leads to ethnic and racial cleansing.

Political Violence and Ethnic Cleansing

Most violence in Africa is related to access to resources and participation in the political process. The most important of resources is access to land. A good place to start is to study how land was treated under colonial rule. For the British, the lesson they learned in India led them to remove land from the market and hand it over to the Native Authority, who effectively governed its allocation to those designated as natives and deprived those considered non-natives. According to leading British colonial administrator, Lord Lugard:

The Native Authority is thus de facto and de jure ruler over his own people. He exercises the power of allocation of lands, and with the aid of the native courts, of adjudication in land disputes and expropriation for offences against the community (1929:203).

In this sense, a non-native could rent but not own land. Land belonged to the collective membership and was accessed as a customary right. Given that the rich, whether native or non-native could purchase land anywhere, what then was the reality of the poor peasant? If 'you could not afford to buy land in the first place, you could still claim land "customarily", in your "home" area, from your "customary" chief, as a "customary" right, under "customary" law' (Mamdani 1998:2). The outcome was a strong sense of ethnic belonging. All this led to a heightened sense and drive to belong to a tribe, whose land would be accessed exclusively as a customary right from the Native Authority by those considered natives of the land.

From the 1930s through the 1940s, the British colonial policy in the South gained momentum. Besides the conscious effort to shape the identity of the subjects in both the North and South, a far more brutal outcome of the British Southern Policy was reflected in the forceful displacement of people from one region, where they were considered non-indigenous, to another, where they were considered indigenous. It involved the purification of all the ethnic groups considered foreign to the region. Contacts between the two regions were restricted. Historically, Sudan was also home to immigrants from East and West Africa, who moved wherever the living conditions were suitable for settling, and those making their way to Mecca.

Tribes such as Banda, Dongo, Kreish, Feruge, Nyangulgule and Togoyo, who adopted Islam and Arab cultures and maintained constant contacts with Arab tribes in Central and Western Sudan (Darfur and Khordofan), were forcefully removed from their regions and resettled in other areas away from the influence of their Northern Arab neighbours (Beshir 1968:51). The policy adopted and implemented throughout Southern Sudan resembled a similar project in apartheid South Africa with the administration of a Pass System. Characteristic of this project was the re-tribalisation of the population, fragmented into distinct ethnic groups and restriction of movement outside the tribal homeland. This was a political project, which led in ethnic cleansing and racial purification so as to create a homogenous group throughout Sudan. Mohamed Beshir captured the outcome of the Southern Policy as it was being implemented throughout Southern Sudan:

In pursuance of this policy, all natives of Darfur and Khordofan were prevented from entering Bahr al Ghazal. No natives of the latter were allowed to go to Khordofan or Darfur. The traditional contact between the Dinka and Arabs which took place annually at the common grazing grounds of Bahr al Arab was reduced to the minimum. The Dinka settled in the North were asked to return

so that 'a more complete separation could be enforced'. A Pass System, similar to that applied in South Africa, was applied, in order to control the contact between North and South. In a meeting held at Kafia Kingi on 14 February 1940, between District Commissioner, Western District, Bahr al Ghazal, and his counterpart in Darfur, it was agreed that only those Northerners who had passes signed by the District Commissioner would be allowed to enter Raga District (Beshir 1968:51).

The British colonial project shaped and changed the very nature of the organisation of resistance in Sudan through the mechanism of law. This project defined individuals and grouped them into categories. The policy laid by the British in the early twentieth century in Sudan also explains the cycle of violence in Darfur in the West of the country and the deadlock over the Disputed Regions, with Abyei being the most contested area. So explosive is the dispute over Abyei that it is instructive to compare it to yet another explosive unresolved dispute, the dispute between India and Pakistan over Kashmir. Abyei has already proved to be a destabilising force for North and South Sudan. Without reaching a region-wide consensus, which will settle the underlining issues over political participation, access to pasture and land, Abyei may end up turning into Sudan's 'Kashmir'.

The problem in Abyei between the Ngok Dinka and the Misseriya, the conflict between the Camel Nomads of the North in Darfur and the agriculturalists in Southern Darfur, is that the demand for tribal homeland in Southern Sudan revolves around the same issues: political representation, access to pasture for cattle, and claims to a tribal homeland which will advocate on behalf of the tribe. Without resolving the underlying issues, the violence will not subside. Instead, the frequency and intensity of the new waves of violence will be far more deadly, given that the region is heavily armed, and the central governments do not have a monopoly over arms.

The regions have not been thoroughly demilitarised. Militias have not been completely disarmed and reintegrated into the armed forces or back into society. The central governments in Khartoum and Juba have not acquired total monopoly over arms or the control and traffic of weapons into the region.

Land has always been an asset in Africa. It is the source of livelihood for the mass of peasantry. With British Indirect Rule, access to land and participation and representation in local governance was assigned to native authorities who administered land and settled local disputes. Violence in the post-colonial period cannot be understood as revolutionary, counter-revolutionary or anti-colonial. It must be understood as a result of a particular mode of organising the colonised. It is the outcome of the process of state formation (Beshir 1968; Harir 1994; Idris 2005; Mamdani 1996).

Furthermore, the kind of violence which is ethnic in character, whereby the battle lines are not drawn on the basis of wealth or poverty, cannot be solved by a top-down approach, foreign aid, development assistance or military intervention. This is because, to use the word of Frantz Fanon, post-colonial violence is what pits the 'Wretched of the Earth' (Fanon 1963) against each other, the poor against the poor, and the disempowered against the disenfranchised.

Wealth and poverty are not the determining factors, but non-economic factors are the driving force fueling and sustaining what Mamdani has called 'non-revolution violence' (Mamdani 2001a). The base of this violence was laid in the colonial period. Its legacy and institutions were inherited at independence by nationalists. Rather than reform the institutions inherited at independence, African states have struggled over the past five decades to fix what colonialism left behind. Some countries have demonstrated the will to move forward after the tragedy of colonial administration. In the last section, I want to return to the conceptual framework of the New Sudan, pioneered by the Late Dr John Garang, as an alternative nation-building project.

I will argue that this alternative offers the best solution to the problems of the Sudan, in the North, in the South and in the Disputed Border Regions. I will contextualise the discussion by drawing on the experience of South Africa, where violence was brought to an end without resorting to criminal justice. In this light, the CPA can be seen first and foremost as a political settlement, which brought an intractable conflict to an end without anyone standing trial.

The Political Challenge in South Sudan

The period between 2009 and 2011 has seen a rise in violence throughout South Sudan and the Border States (Zambakari 2011:43-45). Conflicts continue in Eastern and Western Sudan. Table 2 summarizes incidents recorded over a three-year period in South Sudan and the number of people killed in those incidents. Lise Grande, Deputy Special Representative of the Secretary-General of the UN and Resident and Humanitarian Coordinator in South Sudan, reported that '60,000 people have been affected by recent violence; more than 350,000 people have been displaced during 2011 by rebel militia and inter-communal fighting' (UNOCHA 2012). The military invasion and occupation of South Kordofan and Blue Nile States by the Sudan Armed Forces (SAF) has 'forced 75,000 people to seek refuge in South Sudan's Unity and Upper Nile since June' (UNOCHA 2012). As of December 2011, 4636

people have been killed in South Sudan.¹³ The following four States have the largest number of people killed: Jonglei, Unity, Lakes and Upper Nile. Jonglei accounts for 42.6 per cent of the total killed, Unity 16 per cent, Lakes 10 per cent and Upper Nile 8 per cent. This prompted the Government of South Sudan to declare Jonglei ‘a disaster zone’ (UNOCHA 2012). Together, these four states account for 77 per cent of the overall total while the remaining six states account for 22.89 per cent (Zambakari 2012a). The year 2011 was particularly deadly in the sheer number of people killed and those displaced.

Table 2: Number of People Killed in South Sudan between 2009 and 2011

Top Four States							
	Jonglei	Unity	Lakes	Upper Nile	Subtotal	6 other States	Total
Incidents #	333	109	106	55	603	246	849
Total Killed	1976	754	468	377	3575	1061	4636
%	42.62	16.26	10.09	8.13	77.11	22.89	100

Source: Data from ongoing Doctoral Research: College of Professional Studies, Northeastern University, Boston, MA.

The immediate task for the Government of South Sudan (GoSS) is to address this escalation of ethnic violence and proliferation of armed groups. The increasing number of Internally Displaced Persons (IDPs)¹⁴ from the Border States and within South Sudan, the relationship between peasant communities and pastoralists with shared livelihoods needs to be effectively managed or else violence is the natural outcome of mismanagement.

In the long term, the political challenge will be how to build a more equitable society that engages in peaceful nation-building, is democratic, law-abiding, transparent, and inclusive of the diversity within the country. This challenge was noted by John Garang at the Koka Dam Conference in 1986 (Garang 1992) The solution to the national crisis in Sudan was summarised in the concept of the New Sudan. The New Sudan was a conceptual framework for a country that was inclusive of all its multiple ethnic groups, pluralistic and embracing all nationalities, races, creeds, religions and genders. While the

CPA resolved the armed confrontation between the SPLA and the NCP, it has come short in resolving the fundamental problem of the Sudan.

New Sudan and the Way Forward

The most important formulation of the problem of the Sudan was articulated by the late Dr John Garang, Chairman and Commander-in-Chief of the Sudan People's Liberation Movement/Army (SPLM/A). Garang's understanding of the fundamental problem of the Old Sudan informed and shaped how the CPA was drafted, and later the ideology of the rebel movements in Darfur, Ingassana, and in the Disputed Border States. At the Koka Dam Conference in Ethiopia in 1986, the leading opposition parties in Sudan, along with the SPLM/A, met to discuss the future of Sudan. The meeting had a significant and symbolic meaning in that it brought together all political forces in Sudan except two parties: Democratic Unionist Party (DUP), the Khatmiya-based political organisation, and the Muslim Brothers (Garang 1992:113). At this Conference, Garang acknowledged the problem facing South Sudan specifically when he pointed out that the 'Southern Problem' was less southern in nature but more Sudanese in character (Garang 1992:240). It was a problem epitomised by a certain organisation and centralization of power at the centre which left the peripheries poor, underdeveloped, and under-represented.

According to this problem formulation, 'marginalization in all its forms, discrimination, injustice and subordination, constituted the root causes of the conflict that could not be addressed in a piecemeal fashion by dishing out handouts and concessions to the disgruntled and rebellious groups whenever a conflict erupted in a particular region' (Deng 2010:18-19). The exclusion of the majority from playing an active role in the governance of the country is another issue that is highlighted by scholars who focus on the state as the root cause of the crisis.

To illustrate the stable exclusion of the vast majority in Sudan from governance, a comprehensive study of the period after independence (1956-2000) showed that northern and central Sudan have controlled 60-80 per cent of ministerial positions¹⁵ though they represented only 5 per cent of the total population estimated to be around 32 million when the study was conducted (Alex 2005:464-465). Most economic indicators, including federal and states' actual expenditure as a percentage of GDP,¹⁶ regional revenues and expenditures per capita as per cent of value for North between 1996 and 2000, infant mortality rate and life expectancy by region, and literacy and primary school enrolment, show a consistent pattern in the period after independence,

indicating that peripheries suffered an acute crisis of marginalisation and economic strangulation (Alex 2005:464-478). North and Central Sudan have better indicators while all marginal regions are worse off economically and acutely disenfranchised as a result of government policy. Power is highly centralized in the hands of a minority in Khartoum (LSE 2010:38).

According to Garang, the Old Sudan inherited at independence was 'the dwarf of the Arab World' and the 'sick child of Africa' (Garang 1992:126). The solution to the fundamental problem was 'to involve an all-inclusive Sudanese state which will uphold the New Sudan. A new political Sudanese dispensation in which all Sudanese are equally stakeholders irrespective of their religion, irrespective of their race, tribe or gender' (Garang 2005). The New Sudan was in fact the *raison d'être* for the SPLM since its inception (Nyaba 2010:142).

The crisis demanded a radical restructuring of power at the centre (Garang 1992:125). There was no 'Southern Problem', but rather, a national problem in Sudan (Garang 1992:125-129). This broader definition and analysis of the problem led to the problem being one of exclusion and marginalisation at the centre. Garang understood the problem of Sudan as related to the form of power that ruled in the country. The problem was political and demanded a political solution. This ability to contextualise the problem of violence in Sudan and articulate a comprehensive solution by developing an inclusive solution made the New Sudan Concept attractive in all peripheral regions in Sudan. The importance of Garang's leadership, ideological platform and his New Sudan Vision was acknowledged by Hassan al-Turabi, leader of the Popular Congress Party and architect of the National Islamic Front (NIF), who noted that Garang was 'the man around whom all the political forces and the Sudanese have built consensus for the first time in Sudan's history... his departure will greatly affect the issues he has raised and on which the Sudanese have agreed with him' (ICG 2005:7). Garang's understanding of the national problem paved the way to the Conceptual Framework of the New Sudan, the CPA, and the current Constitution in the Republic of South Sudan (Zambakari 2012b:10-11).

The New Sudan model was developed to solve the national problem in Sudan. It has been adopted and framed into the Constitution in South Sudan. With regard to citizenship right and the problem of forced displacement, the New Sudan is consistent with regional and international frameworks dealing with citizenship rights. The ideology behind the New Sudan is similar to the one behind the American notion of *E-Pluribus Unum*.¹⁷

The New Sudan is a radical departure from colonial legacy reducing citizenship to the question of nationals. It is premised on two key fundamental shifts that together constitute a paradigmatic transformation in the conceptualisation of citizenship. The first shift is departure from the colonial policy of distinguishing between citizens and subjects, one based in the urban areas while the second is based in the countryside.

The colonial administration in Sudan racialised the urban centres and ethnicised the rural peasantry. It turned tribe into an administrative unit and built its edifice on managing these tribal units as semi-autonomous entities. It locked the peasant onto the tribal homeland and enforced the separation in law.¹⁸ The effect was to move away from developing a uniform, secular citizenship framework to manage the diversity within the country. This was a displacement from citizenship to the national question.

In redefining the problem in Sudan from the problem of the South, Garang effectively included all marginalised regions in the struggle for liberation and reform of power at the centre (Garang 1992). The national identity crisis of whether Sudan is African or Arab is a contested issue today. In the North, the emphasis has been placed on the Arab/Islamic character of the state. With the secession of the South, the tendency in the North has been to consolidate the Arab identity while silencing all marginal identities within the North.

The opposite phenomenon is taking place in the South where the elites have moved quickly to shape the identity of the country as African, secular and Black. Sharif Harir noted that this struggle for national identity has been one of the contributing factors to the violence in Sudan. He wrote: "This multiple denial of a Sudan which is uniquely Sudanese and not an appendage to Arabism, Islamism or Africanism lies at the root of the political problems of the "Sudan"" (Harir 1994:14). Most scholars dismiss the easy and simplified answer, which is characteristic of the way the problems in Sudan have been reported in the media. Norman Anderson rightly dismissed the notion that the problem is 'Arabs' against 'Africans' and claimed that the relationship between the 'Arab' and the 'African', North and South, is complex (Anderson 1999:65). Sudan has a historical relationship with the outside world, including the Mediterranean and Arabia, predating recorded history. During the Islamic era, Muslim Arabs chose to intermarry and assimilate rather than rely on conquest and force.

Garang took this vision a bit further in his analysis of what constituted the problems of Sudan and offered a model of nation-building, rooted in the concept of unity in diversity, respect for human rights and rule of law,

equitable distribution of national resources, devolution of power from the centre to historically marginalised regions, and value of multiple identities. Sudan is a melting pot of nationalities, religions and languages. There will be no peace if some groups feel marginalised, intimidated and territorially besieged. The problem can be seen in regions which have people who have multiple identities: Abyei, Kordofan, Nuba Mountains and Blue Nile. This dilemma was captured recently in the Sudan Tribune by Dr Amir Idris, Associate Professor of African Studies and Associate Chair of the Department of African and African American Studies, Fordham University. He wrote:

I was born and raised in the north by two parents who came from two different worlds. My father came from southern Sudan and my mother was born and raised in the north. I married a woman who is a southern Sudanese. Our two children are proud to define themselves as Canadian (Idris 2010).

Despite the independence of the South, South Sudan is still linked to the North socially and economically. The South is so inextricably linked to the North that it can be argued that the South cannot find peace if the North is unstable, and the opposite is true for the North. The difficulty can be seen in the attempt to solve the problem in Abyei. The referendum on self-determination did not undo relationships forged historically over thousands of years, and it did not change the social and cultural fabric of the country.

Rather than delink prematurely all relationships between the North and South, Sudan can learn a lesson from the South African experience where violence was effectively brought to an end; and an inclusive political community, which accounts for the diversity within South Africa created and inaugurated with the first election in 1994. South Africa, like Sudan, had the option to perpetuate an endless war or reach a political settlement. It opted for the latter. The terms of the settlement are instructive in settling the crisis in the Disputed Regions and all marginalised areas in Sudan. The solution in North and South Sudan demands a similar political imagination like the one in South Africa. This imagination is noted by a Senior Research Specialist in South Africa:

It was the fact that the contending political forces imagined the future of what South African citizenship might look like after apartheid, and that this imagination was shaped by the historical particularity of state formation in South Africa, by both its limits and its possibilities (Pillay 2010:35).

This political imagination, crucial in propelling South Africa forward was summarised in South Africa's Freedom Charter of 1955. The Charter presented a vision of South Africa that is similar to what Garang envisioned for Sudan

and declared: 'that South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of all the people' (African National Congress [ANC] 1955). In 1994, Mandela reiterated the concept and premise of the 'New South Africa'. He identified what appears to be the Achilles heel of the nation-building project throughout Africa in noting that the challenge today for political leaders was 'to build a nation in which all people – irrespective of race, colour, creed, religion or sex – can assert fully their human worth; after apartheid, our people deserve nothing less than the right to life, liberty and pursuit of happiness' (Mandela 1994). Mandela also warned that failure to properly manage diversity within an inclusive framework was recipe for disaster, which destroys the human capital and the potentials of citizens. The New Sudan vision as presented at the Koka Dam Conference on 20 March 1986, was a conceptual framework for a country which was inclusive of all its multiple ethnic groups, pluralistic and embracing all nationalities, race, creeds, religion and genders. It was a country in which all Sudanese were equal stakeholders.

In South Africa, for example, the African National Congress realized that victory was not possible. It also acknowledged that apartheid South Africa was a racially exclusive state. The solution was not in re-racialising the post-apartheid state through a demand for a black majority, but rather, de-racialising and reforming the state. The limit of the South African transition from apartheid to a post-apartheid democratic system is that it managed to deracialise the civil services and the state at the centre, but it continues to uphold the customary sphere without reforming it in the name of tradition. Such is the limit in South Africa, but that is a problem that it is working out as it moves forward.

The lesson of South Africa is 'it recognized that all belonged and that the creation of a single political community was the goal. Race, ethnicity and history defined the answer in the past, but will not define it in the future' (Pillay 2010). For North and South Sudan, those who will pay allegiance to the national flag, those who choose to have a common future not bound by the past, those Sudanese who chose to live side-by-side as friends and neighbours, will have to put the past aside and work for a peaceful common future. That the living must be prioritised over the dead is the lesson of South Africa. South Africa belongs to South Africans. North and South Sudan belong to North and South Sudanese.

Conclusion

This chapter started by demonstrating the successes of the Comprehensive Peace Agreement (CPA), which established the Interim Constitution of Southern Sudan, and effectively ended the war between North (NCP) and South Sudan (SPLA/M). The CPA, enacted in 2005, formed the semi-autonomous Government of Southern Sudan (GoSS) in the southern part of the Republic of Sudan and effectively ended violence, which has devastated Sudan since 1955. A brief history of Sudan was offered to provide a background to the rest of the paper.

Next, the plight of Internally Displaced Persons (IDPs) and refugees was presented, illustrating the daunting task of managing the inflow of displaced people in the various parts of Sudan. The number of South Sudanese living in the North ranges from 1.5 million to 2 million, and a large number of them will not return to the South due to the difficult living conditions in the South and current instability in the region. Among the key issues that affect both the Government of South Sudan (GoSS) and the Government of Sudan (GoS) are the proliferation of ethnic violence, a Disputed Border Region pending consultation, millions of IDPs stranded throughout the country, and over half a million refugees yet to find a permanent home.

A case study was presented to illustrate the tendency for the proliferation of counties in South Sudan. It was argued that this mode of organising the mass of peasantry pre-empts the creation of a true inclusive state and focuses on a mode of governance which produces many smaller 'nation-states' within the larger states in South Sudan. The division is built on the assumptions that the political map must follow the cultural map of a region at the national level and at the county level. The real problem with this logic is that no matter how many counties are created and how much the map of the county and region is redrawn, the political crisis will remain. This political crisis always leads to political violence.

The proliferation of ethnic violence is best understood as an indispensable component of the process of state formation, colonial governmentality, deployed to colonise African colonies in the late nineteenth century. To move forward and pre-empt future violence requires political imagination to rethink an alternative future based on a common future rather than a common past and descent. The solution for both governments in North and South Sudan is found in Garang's conceptual framework of the New Sudan, which is

consistent with the other successful case in the African context, South Africa's transition from apartheid to a democracy. The lesson of South Africa is the creation of a single political community inclusive of the diversity within the country.

The New Sudan vision is the most progressive attempt at reforming the state in Sudan. It theorises a political reform of the colonial state in Sudan, the building of an inclusive community where citizens will not be discriminated based on race, colour, creed, religion, ethnicity or sex. Race, ethnicity and history defined the solutions in the past, but race and ethnicity will not define solutions in the future. For North and South Sudan, those who will pay allegiance to the national flag, those who choose to have a common future that is not bound by the past, those Sudanese who will choose to live side-by-side as friends and neighbours, will have to put the past aside and work for a peaceful, common future. The solutions to Sudan's problems cannot be imposed by force; they cannot be imposed upon Sudanese from outside. Any forceful and externally enforced solution has not worked in the past and will not work in the future.

Notes

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2. The Disputed Regions mentioned in the Comprehensive Peace Agreement for special status include Abyei, Southern Kordofan and Blue Nile.
3. After 9 July 2011, Khartoum will remain the capital city of North Sudan while Juba will become the capital city of South Sudan. There is an ongoing discussion about moving the capital city out of Juba but as of the date of the writing of this essay, Juba remains the capital in South Sudan.
4. Internally Displaced Persons (IDPs).
5. Figure includes approximately 400,000 IDPs living in four sites recognized by Sudanese authorities. Most IDPs in northern Sudan live in informal settlements in and around Khartoum.

6. UN Office for the Coordination of Humanitarian Affairs (OCHA)
7. Office of the UN High Commissioner for Refugees (UNHCR)
8. According to UNHCR, as of 13 February 248 Sudanese refugees had returned to Southern Sudan since 30 October 2010.
9. Represents International Organization for Migration (IOM) verified returns at point of arrival; does not include 7,665 registered but unverified returns to the Three Areas.
10. This was the Second Sudanese Civil War. The First Civil War started in 1955 and was brought to an end with the Addis Ababa Agreement in 1972. The controversies following the agreement in 1972 led to the second phase of the Southern rebel movement. Between the First Civil War and the SPLA/M uprising in 1983, there was another group which referred to itself as Anyanya II. The movement started shortly after the Addis Ababa Agreement and initiated military operations starting in 1978 in Eastern Upper Nile on the Ethiopian border.
11. Constitution of Nigeria (1999), § 14(3). "The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few State or from a few ethnic or other sectional groups in that Government or in any of its agencies." *Id.* §153(1)(c) establishes the Federal Character Commission. The Third Schedule, Part 1, §7 states: "The Federal Character Commission shall comprise the following members: (a) a Chairman; and (b) one person to represent each of the states of the Federation and the Federal Capital Territory, Abuja." *Id.* The Third Schedule, Part I, §8(1) empowers the Commission and states: "In giving effect to the provisions of section 14(3) and (4) of this Constitution, the Commission shall have the power to: (a) work out an equitable formula subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the Federation and of the States, the armed forces of the Federation, the Nigeria Police Force and other government security agencies, government owned companies and parastatals of the states." *Id.*
12. Minasse Haile, 'The New Ethiopian Constitution: Its Impact Upon Unity, Human Rights and Development', 20 *Suffolk Transnat'l L. Rev.* 1, 19-20 (1996); Mahmood Mamdani, Columbia Univ., 'Political Identity, Citizenship and Ethnicity in Post-Colonial Africa', Keynote Address at the Arusha Conference: 'New Frontiers of Social Policy' 16 (12-15 December 2005) [hereinafter Mamdani, Keynote Address at the Arusha Conference].
13. The three leading factors accounting for the killing are inter-tribal conflicts, various armed incidences, and intra-tribal clashes. Jonglei, Warrap, Unity, Lake and Upper Nile states are the most affected areas.
14. Together, North and South Sudan have one of the largest numbers of IDPs in the world. For the global overview for people internally displaced by conflict and violence, see IDMC and NRC(2012).

15. The exception was the period between 1986 and 1989, known in Sudan as the second democracy, when Sudan experimented with a democratic system of governance. The share fell to 47 per cent of the total.
16. This is an aggregation of government expenditures.
17. Latin phrase that means 'Out of Many-One'. It is a motto that is featured on the Great Seal of the United States of America.
18. For more on the Closed District Ordinances in Sudan refer to Beshir (1968); Garang (1994:15-16).

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