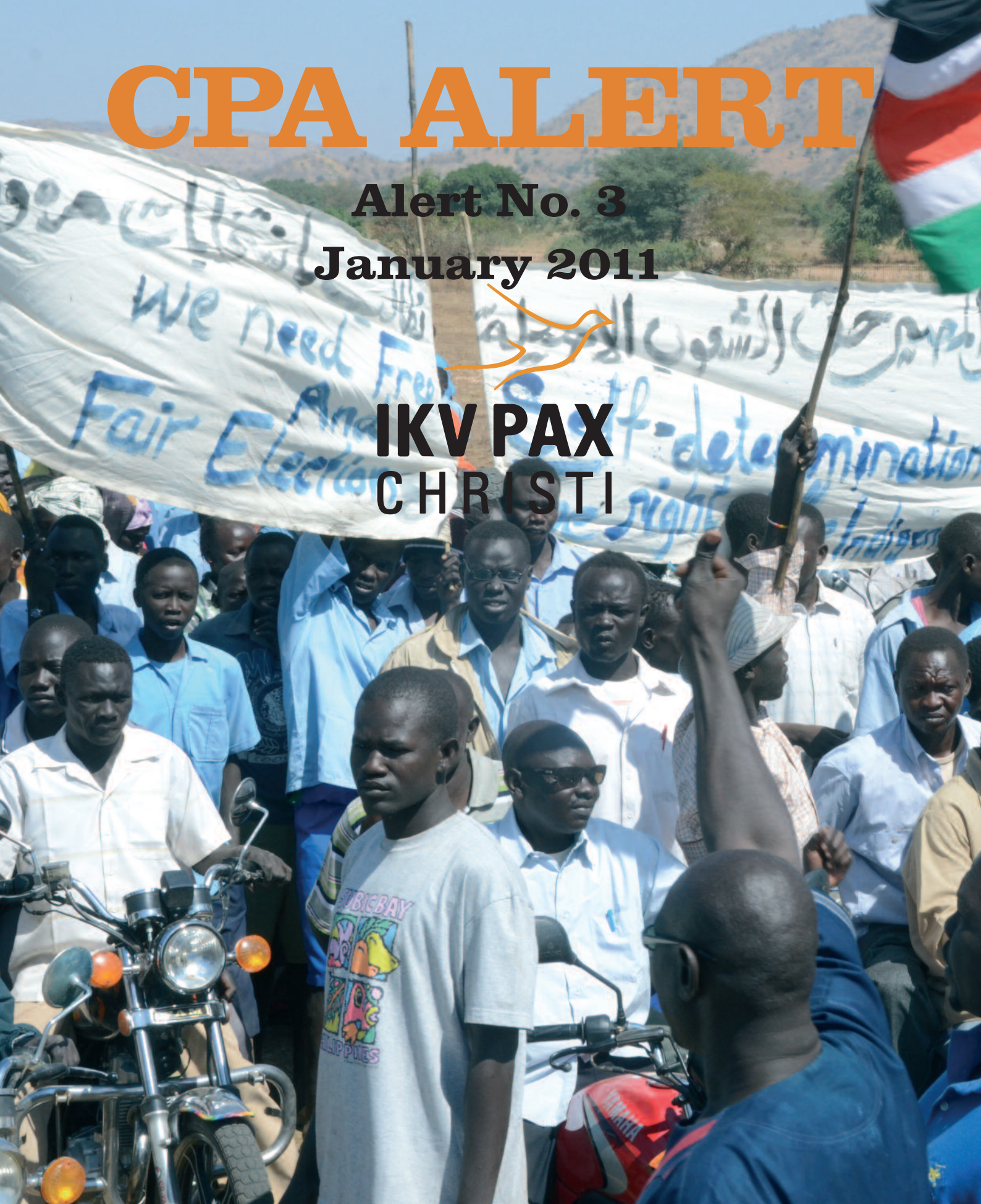


CPA ALERT

Alert No. 3

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**IKV PAX
CHRISTI**



**The Nuba Mountains:
Central to Sudan's Stability**

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IKV Pax Christi works for peace, reconciliation and justice in the world. We join with people in conflict areas to work on a peaceful and democratic society. We enlist the aid of people in the Netherlands who, like IKV Pax Christi, want to work for political solutions to crises and armed conflicts. IKV Pax Christi combines knowledge, energy and people to attain one single objective: there must be peace!



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Preface

IKV Pax Christi launches its third CPA alert at a decisive moment in the history of Sudan. As we await the official result of South Sudan's referendum on self-determination, it is clear that an overwhelming majority of southerners have voted in favour of independence.

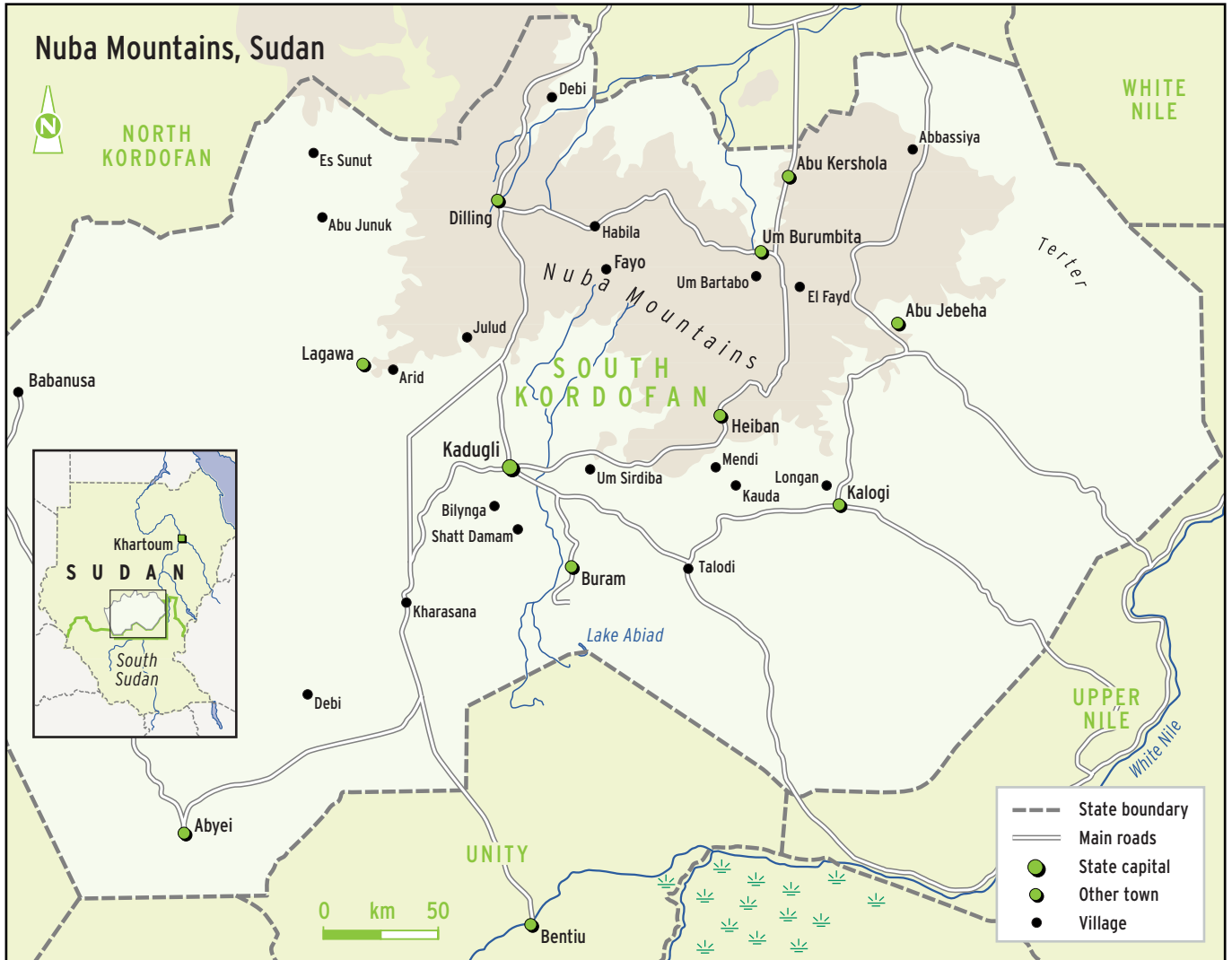
But the people of the Nuba Mountains and Blue Nile, many of whom fought alongside southerners in the civil war, do not have the right to determine their own political future. They have an ill-defined 'Popular Consultation' process in which the people have invested great hope but which we fear will not be adequate to meet the aspirations of a large section of the population. The process has to be concluded before the end of the CPA interim period in July, after state elections that will require close international attention. Failure to achieve this will deepen the existing political malaise and could, at worst, re-ignite conflict.

The Nuba Mountains/Southern Kordofan, Blue Nile and Abyei, the so-called 'Three Areas', were the most difficult final aspect of negotiating the CPA. Many believe they contain the fuse of any future North-South conflict. The inhabitants of the Nuba Mountains also fear that the price of southern independence will be paid by the SPLM in the North, and expect the Khartoum government to deal ruthlessly with any new opposition in northern regions. The armed Arab pastoralist communities of Southern Kordofan fear the loss of grazing grounds in an independent South Sudan and feel betrayed in Abyei, and are, once again, vulnerable to manipulation by Khartoum.

Now that the referendum has taken place, peacefully, IKV Pax Christi urges the international community increase its engagement on South Kordofan to turn a ceasefire into a sustainable peace and ensure the implementation of the still-unfulfilled CPA commitments beyond the end of the CPA.

Jan Gruiters
Director IKV Pax Christi





Small Arms Campaign: *The drift back to war: Insecurity and militarization in the Nuba Mountains*, Sudan Issue Brief - Small Arms Survey Number 12 August 2008 p.2

Introduction and background

*Southern Kordofan and Blue Nile must be put at the top of all stakeholders' agendas as a matter of priority. Their situation requires special status and a new way of looking at them. The Church fears that failure to address the aspirations of the people of these two states could derail any peaceful post-2011 transition.*¹

The end of the Comprehensive Peace Agreement (CPA) on 9 July 2011 will mark an end to the agreements that determine the fate of the Nuba people, a cluster of 'African' tribes in the Arabized north of Sudan who fought a war of survival for 15 years, at a cost of tens of thousands of lives. A protocol in the CPA that was intended to resolve the conflict in the so-called 'two areas', Southern Kordofan/Nuba Mountains and Blue Nile², was more a work plan than a final settlement and failed to satisfy the aspirations of the Nuba—most importantly, their long-standing demand for self-determination to protect their society and their culture and reverse decades of marginalization and discrimination. Since the CPA was signed in January 2005, implementation of the protocol has been dangerously neglected.

South Sudan's vote on self-determination in January 2011, in a referendum from which the two areas were excluded, marked a critical moment for the Nuba people. Many fought alongside the southern rebels of the Sudan People's Liberation Movement/Army (SPLM/A) in the second civil war (1983-2005) and do not want to be part of a separate northern state ruled from Khartoum by the National Congress Party (NCP) of President Omar al Bashir. The failure to implement the Nuba Mountains protocol has deepened feelings of anger, especially in the Nuba SPLA and among youth who feel betrayed by the promises of support made in the aftermath of the CPA. A build-up of government forces in the mountain region in the countdown to the referendum, following the distribution of thousands of weapons to Arab tribes there in 2009,³ has led many to believe that new fighting is only a matter of time.

Tensions are already rising sharply in the aftermath of the referendum, with mountain-wide protest demonstrations against the use of an old voter registry in state elections scheduled for April 2011, the first state elections in Southern Kordofan since the CPA.⁴ The registry, distributed by the government in January 2011, predates the last census, which added 1.1 million people to the population of the state. At a rally in SPLM-

controlled Kauda on 15 January, an SPLM spokesman said: "We want peace, not war! But tell Bashir, and the whole world, that we are ready for war if he denies our basic rights. We want free and fair elections! And we want self-determination!"

The majority of Nuba are settled farmers. They share the state of Southern Kordofan, in the geographical centre of Sudan, with Baggara⁵ cattle-herders—chiefly Hawazma Arabs and, in the west of the state bordering on Darfur, Missiriya. Both suffer from chronic neglect and political and economic marginalization. But the Nuba especially feel they have been treated as 'second-class citizens'—a slave class within their own territory, their wrestling, dancing and body painting deemed 'primitive' and banned—because they are 'black' Africans who follow Christianity and traditional religions as well as Islam. Despite a history of enslavement, and their perception of racial discrimination today, the Nuba enjoyed relatively friendly relations with pastoralists until massive land seizures pushed many to join the SPLA in the mid-1980s—and Khartoum responded by arming the pastoralists against them.



Religion in the Nuba Mountains

In December 1994, in the middle of war and famine, Nuba in SPLM/A-controlled areas organized a “Conference on Religious Tolerance” to fight against the intolerance radiating from Khartoum. Chaired by the SPLM, it was attended by leaders of the main faiths in the Nuba Mountains—Islam, Christianity and traditional religions.

The conference endorsed freedom of religion. It approved polygamy, “to all whose beliefs permit it”, and inter-marriage with followers of other faiths, and said that “any person who uses religion to direct people against the public interest or the will of the people... shall be disciplined.” Pragmatism prevailed: eating pork was deemed to be acceptable because wild pigs were available and Khartoum’s scorched-earth policies had created a famine; locally brewed Marissa beer was admitted because of its role in Nuba social life, including in Nafirs—community work parties celebrated with feasting, singing and dancing.

Christianity was first introduced into the Nuba Mountains towards the end of the nineteenth century. It spread slowly at first among the Nuba, who continued to embrace all religions—often within a single family—until an influx of aid agencies in the late 1990s brought Christian fundamentalist missionaries into the region and introduced the idea of competition among religions. This created tensions that had not previously existed and further eroded the tradition of respect and tolerance that the government’s Islamist agenda had already damaged in areas under government control.

When the SPLA entered the Nuba Mountains in 1989, the churches were the first target of reprisals. (*Facing Genocide, Ch. 4; Attack on Christianity, Attack on Islam.*) But as even Moslems supported the SPLM/A, mosques too were attacked and burned, the attack on Islam ‘legitimized’ by a fatwa that declared Moslem supporters of the rebellion to be apostates—a crime punishable with death under Islamic law.

The war in the Nuba Mountains killed tens of thousands of civilians and displaced hundreds of thousands, most of them unrecorded because of a government blockade of the mountain region. Relations between Nuba and Baggara were badly damaged. Smallholder agriculture, the mainstay of the Nuba economy, collapsed. The food production system in the Nuba region, one of the richest and most fertile parts of Sudan, with a frequent surplus in pre-war years, verged on total collapse as Nuba fled to the hilltops, cultivating on dry and rocky soil.

Although many Nuba joined the SPLM/A’s struggle for a ‘New Sudan’, the Nuba war was a civil war in its own right, an indigenously mobilized rebellion, with strong local roots, motivated in large part by the suppression of indigenous cultures, languages and religious observances. Yet this rebellion was ended by an unsatisfactory compromise as if it were merely a footnote to the war in the South. Today the Nuba are in a political limbo. The future of the SPLM/A in Southern Kordofan is being decided in the context of North-South talks, which have not prioritized the two areas. There are no representatives from Southern Kordofan in the SPLM’s lead negotiating team. Furthermore, Southern

Kordofan is still part of the SPLM/A’s Southern Sector, giving the NCP a pretext to argue that the Nuba are secessionists—“new southerners”, in the words of a leaked directive, who must be “weakened... controlled (and) pulled out at the roots”.⁶

The government war in the Nuba Mountains went unnoticed and unchallenged for more than a decade. With international attention focused on the conflict in Southern Sudan, Khartoum sealed the region off from 1991 until 1995. After 1991, cut off even from the SPLA in the South, the Nuba were fighting alone without resupply, dependent on local support. In the middle of a three-year famine, they established a civilian administration and judicial system, organised a religious tolerance conference, and took a popular vote on whether to fight on or surrender. Under the leadership of the charismatic Yousif Kuwa, a former teacher and graduate of Khartoum University, there was no intra-tribal fighting of the sort that plagued the Southern SPLA.

At its height, the war was not only a war to defeat the rebels who took the SPLA’s rebellion out of the ‘African’ South and into the ‘Arab’ North. It was a programme of

social engineering designed to resettle the entire population of insurgent areas in camps that would “eliminate the Nuba identity”⁷—and with it the political, religious and cultural tolerance that challenged the National Islamic Front’s (NIF) project of a conformist Islamic extremism. In the early 1990s, army and paramilitary Popular Defence Forces (PDF) killed 60,000–70,000 Nuba in just seven months.⁸ Massive military offensives were dignified in the name of jihad.⁹ Humanitarian access was denied. Community leaders, educated people and intellectuals were detained and killed “to ensure that the Nuba were so primitive that they couldn’t speak for themselves”.¹⁰

The key provisions of the CPA have not been implemented in any significant manner in Southern Kordofan. In the ‘framework negotiations’ for post-referendum arrangements that began in Khartoum in July 2010, the NCP has made clear that it will set the price of secession in the South’s referendum very high. The SPLM will not be permitted to continue as a political party in the North. The SPLA will be permitted no presence, but for a minority who could be integrated into the Sudan Armed Forces (SAF) at the discretion and on the terms of the NCP. The SPLM and its international backers must accept that they will have no role or access in the North—including in Southern Kordofan.

The NCP is also insisting that when the CPA ends, the UN peacekeeping force UNMIS also ends.¹¹

At an unpredictable moment in Sudan’s history, all scenarios are possible. But many Nuba believe that a separate northern state ruled by the NCP will reject the diversity and tolerance they fought so hard to defend and will move to crush them, once the referendum is over, unless their case is highlighted. Their fears deepened in December when President Bashir said the North would adopt an Islamic constitution if Sudan was partitioned, and “there will be no time then to speak of diversity of culture and ethnicity.”¹² Failure to satisfy the demands of the Nuba SPLA in the post-referendum negotiations could push veterans to take up arms again, with backing from disaffected youth who have few educational or employment opportunities.

The jihad in the Nuba Mountains failed not because of the might of the SPLA but because of the determination of the Nuba people to shape a future free of the shackles of the past. This has not changed. “I am just the way I was before,” an elderly Nuba woman said on the eve of the South’s referendum. “I still need my rights. If we don’t get our rights, there’s the old language: a return to arms.”¹³



Chronology:

July 1985: An SPLA unit from southern Sudan crosses the 1956 border and raids a Baggara cattle camp at Gardud in Southern Kordofan. Sixty Arabs are killed. The ruling Transitional Military Council decides to arm the Baggara, themselves impoverished and marginalized within Sudan. The militia begins to launch attacks on Nuba civilians indiscriminately accused of supporting the SPLA struggle.

1987: The SPLA's Volcano Battalion enters the Nuba Mountains to organize recruits for the war in the South.

January 1989: The SPLA's New Kush division enters the Nuba Mountains under the command of Yousif Kuwa, establishing permanent bases for the first time and winning the support of many Nuba. Prime Minister Sadeq al Mahdi begins transforming militias into the paramilitary 'Popular Defence Force'. In three years of army and militia assaults, villages and crops are burned, creating famine and thousands of civilians killed.

April 1989: The Sudan government, SPLM/A and western donors agree to a large humanitarian operation, Operation Lifeline Sudan, for war-affected areas. The Nuba Mountains are not included.

January 1992: Jihad is declared in the Nuba Mountains. The government unleashes massive military offensives and begins a programme of forced relocations into camps where non-Moslems are put under pressure to convert to Islam, including by using food as an incentive.

April 1992: Pro-government imams issue a fatwa confirming the jihad against the SPLA and its sympathizers. The fatwa ordains that "an insurgent who was previously a Moslem is an apostate; and a non-Moslem is a non-believer standing as a bulwark against the spread of Islam; and Islam has granted the freedom of killing both of them."

1992: Following catastrophic losses, in war and famine, Kuwa convenes an 'Advisory Council' to vote on whether to continue fighting. The Nuba vote to fight.

1995: The first in-depth reports of the war are published and a secret humanitarian airlift is established by a small group of relief agencies. International attention favours a gradual decrease in violence.

1999: The UN enters the Nuba Mountains with a small, largely symbolic UNICEF operation. It is the first time the UN has worked in an SPLM area outside the South.

March 2001: Yousif Kuwa dies and is replaced as SPLM/A governor by Abdel Aziz Adam al Hilu.

November 2001: Sen. John Danforth says the Nuba Mountains are "at the top" of the US government's agenda.

January 2002: The Būrgenstock agreement introduces a ceasefire in the Nuba Mountains and a monitoring mechanism, the Joint Military Commission.

May 2004: The Sudan government and SPLM sign a protocol *On The Resolution of the Conflict In Southern Kordofan and Blue Nile States*. In 2005 this is incorporated into the Comprehensive Peace Agreement. A fragile calm returns, punctuated primarily by clashes between Nuba farmers and Baggara pastoralists.

Ceasefire and CPA

Hostilities in the Nuba Mountains were halted in 2002, two years before other war-affected areas, after the full extent of the atrocities there was exposed¹⁴ and the US special envoy, Sen. John Danforth, made the Nuba a test for Khartoum's good faith. A ceasefire agreement signed in Bürgenstock, Switzerland, in January 2002 opened the Nuba region up to international relief and introduced a lean and low-cost international monitoring mechanism, the Joint Military Commission (JMC). But the agreement was primarily humanitarian and did not address the causes of the conflict. It owed more to Khartoum's new priorities, including control of the oilfields immediately south of the mountains, than to any fundamental change of position towards the Nuba.

In December 2002, Nuba in rebel-controlled areas mandated the SPLM to negotiate on their behalf in Naivasha on condition that self-determination and equal distribution of power and wealth were assured. SPLM Chairman John Garang promised that the SPLM "will not let you down. Whatever agreement we reach...

we'll include you."¹⁵ The protocol that was agreed in May 2004, after Khartoum reluctantly conceded to include the two areas in the Naivasha talks, was widely perceived as a sell-out, however, "a compromise to reach settlement on contentious issues" including the right of secession for southerners and self-determination for Abyei.¹⁶

Despite the SPLM's stated national agenda, the CPA proposed a North-South resolution to the conflict—and by using the 1956 independence boundaries to demarcate the geographical divide, it placed the Nuba firmly in the North.¹⁷ It provided for power-sharing between the NCP and SPLM on a rotational basis, with each holding the governorship for half of time before elections and instituted power-sharing in the executive and legislature with a 55-45% split in favour of the NCP. But it postponed resolution of core grievances like the ownership, access and use of land, the recognition of customary rights, religion and state, education and development by making them dependent on new legislation, new commissions, and, ultimately, a loosely-

CPA on Popular Consultation:

" 3. Popular Consultation:

The Government of Sudan and the Sudan People's Liberation Movement (the Parties), committed to reaching a just, fair and comprehensive peace agreement to end the war in Southern Kordofan/Nuba Mountains and Blue Nile States, agree on the following:

3.1. Popular consultation is a democratic right and mechanism to ascertain the views of the people of Southern Kordofan/Nuba Mountains and Blue Nile States on the comprehensive agreement reached by the Government of Sudan and the Sudan People's Liberation Movement.

3.2. That this comprehensive agreement shall be subjected to the will of the people of the two States through their respective democratically elected legislatures.

3.3. That the legislatures of the two States shall each establish a Parliamentary Assessment and Evaluation Commission to assess and evaluate the implementation of the agreement in each State. The two Commissions shall submit their reports to the legislatures of the two States by the fourth year of the signing of the comprehensive Peace Agreement.

3.4. An independent Commission shall be established by the Presidency to assess and evaluate the implementation of the comprehensive Peace Agreement in each of the two States. The Commission shall submit its reports to the National Government and the Governments of the two States who shall use the reports to rectify any procedure that needs to be rectified to ensure faithful implementation of the Agreement.

3.5. Once this agreement is endorsed by the people through the legislature of any of the two States as meeting their aspirations, then the agreement becomes the final settlement of the political conflict in that State.

3.6. Should any of the legislatures of the two States, after reviewing the Agreement, decide to rectify, within the framework of the Agreement, any shortcomings in the constitutional, political and administrative arrangements of the Agreement, then such legislature shall engage in negotiations with the National Government with the view of rectifying these shortcomings."

(See Annex 1: CPA's Protocol on Southern Kordofan/Nuba Mountains and Blue Nile States)

defined, protracted and ultimately undefined ‘popular consultation’ process—a review of the CPA provisions by an elected state legislature, to determine whether they can be said to meet the aspirations of the people.

The stages that must follow state-level consultations carry a high probability of disagreement with the centre, making it possible for the process to be drawn out over several months (given the time frames allowed under the Popular Consultation Act) and be unfinished at the end of the interim period, the deadline for completion.¹⁸ Expectations are high: many Nuba believe the process will open the door to self-determination; some Misseriya think they will be able to regain control of the former Western Kordofan region, including the Lagawa and Keilak localities which the SPLM considers part of the Nuba Mountains.

Supporters of the process argue that it is a vehicle that allows popular sentiment to be expressed, but there seems to be little basis for optimism that the government will be disposed to respond flexibly and generously to local aspirations. The consultation therefore risks raising expectations that will ultimately be dashed without careful international monitoring. In a highly militarized environment, amid an increasingly repressive political climate in the North, popular consultation may hold more risk than advantage. Already many Nuba are demanding the right to a self-determination referendum of their own—and, failing that, a return to war—if popular consultation does not deliver strong federalism.

On paper, the CPA gave Southern Kordofan considerable autonomy and increased control over local administration, including education and legal systems. The state was allocated a share of the national wealth, although it was left to Khartoum to decide how much that would be. But while the SPLM/A insisted on the necessity of maintaining its military in the South, no such arrangement was made for the two areas. The Nuba were required to move their forces out of Southern Kordofan and into the South, trusting that Joint Integrated Units (JIUs) composed of 6,000 men and divided equally between SAF and SPLA would be able to protect civilians in the short term—and, in the unlikely event that unity was ‘made attractive’, would evolve into a new national army.

In reality, the little the CPA offered the Nuba would be dependent on a strong partnership between NCP and SPLM within the Government of National Unity (GoNU). No such partnership was established. After the April 2010 elections, the NCP ruled northern Sudan alone.

Collapse of Confidence

As the Sudanese state reconfigures itself, the two main concerns of the Nuba people, security and land reform, are as sharp as they were on the day the CPA was signed. The little development there has been in the state has focused recently on the formerly SPLM/A-controlled areas, but has failed to dent the popular perception that “nothing has changed”. With minimal progress on core grievances, but significant unexplained movements of SAF tanks and troops in recent months and an increase in the number of civilians carrying guns, even in Kadugli, there is a growing conviction that the Nuba will remain marginalized—and physically at risk—without further armed struggle.¹⁹

In the last 18 months, the unlikely partnership of Ahmad Haroun, a senior NCP official indicted by the International Criminal Court (ICC) for crimes against humanity and war crimes allegedly committed in Darfur, and Abdul Aziz Adam al Hilu, a respected SPLA commander of Darfurian parentage, has broken a political deadlock that drove the timetable of change damagingly off course and ensured that CPA implementation lagged far behind schedule. The state’s first governor, SPLA Commander Ismael Jallab, took office in September 2005, but was unable to present a government until March 2006 because of a refusal by the NCP to nominate its candidates. Disagreement over the position of speaker of the state assembly then put further progress on hold. It was not until December 2006 that the assembly approved a state constitution and was able, in theory, to determine budgets and pass legislation.

With the appointment of al Hilu as deputy governor in April 2009, and Haroun as governor a month later, a period of unprecedented (and still little understood) cooperation at state level between NCP and SPLM initiated an 11th-hour “war for delivery of services to the people, security and stability, and democratic rights.”²⁰ Integration and development of the former SPLM areas were prioritized and a dispute over the 2008 census was resolved, with Khartoum agreeing to a new count that almost doubled the first count.²¹ State elections postponed because of the census dispute were re-scheduled for April 2011.

But the Haroun-al Hilu partnership is viewed with suspicion by Nuba, who denounced the NCP governor as “a criminal (and) mass murderer of Darfurians” in Kauda on 15 January. It has been unable to dispel fears

that the NCP will declare the CPA dead and annul all its provisions—including the popular consultation and perhaps even the elections—once the dust has settled on the southern referendum. The popular consultation has already been delayed to the point where it will be a rush to complete it before the end of the CPA. Nuba say it is the consultation that will decide whether they go back to war or not (presuming that the elections proceed smoothly). Many say that cancellation or manipulation of the process by the NCP will itself be a *casus belli*.

Part of the reason for these fears lies in Khartoum, where one observer of the framework negotiations describes the mood inside the NCP as ‘vindictive’ and—with regard to the position of southerners and the SPLM in the North—‘chilling’. But Nuba are also mindful of governor Haroun’s history in Kordofan as a leader of the PDF (before his alleged involvement in the conflict in Darfur) and then, in the 1990s, as a head of the Peace and Resettlement Administration (PRA) in Kadugli. Set up in 1991 to implement plans for the forcible relocation of Nuba in ‘peace villages’ often far from the mountains—“titanic social engineering and political repression on a scale never before seen in Sudan”²²—the PRA is described by a Nuba intellectual independent of the SPLM/A as having served in practice as “an umbrella for anti-peace activities.”²³

Reports of fierce arguments between governor Haroun and presidential adviser Nafie Ali Nafie, the former security chief whose hard line is prevailing in the NCP,²⁴ have failed to dispel suspicions that Haroun’s alliance with al Hilu is little more than smoke and mirrors. Playing into this interpretation of the partnership is the record of several men who have taken office in Kadugli since Haroun was appointed. The most disturbing of these, in the eyes of the Nuba, is Maj. Gen. Ahmad Khamis, head of Military Intelligence in Kadugli during the war—consistently named as being responsible for detentions, torture and executions²⁵—and now commanding the 14th infantry division in Kadugli. His return to Southern Kordofan has strengthened suspicions that Khartoum is planning to use force to pre-empt any move by the Nuba to assert themselves after the South’s referendum.

Similarly, the creation of two cross-party bodies to promote peaceful co-existence has been overshadowed by the close identification of their leaders with the security services and associated militias. The

Reconciliation and Peaceful Co-existence Mechanism (RPCM) set up in June 2009 is headed by an NCP veteran, Osman Gadim, known to have connections with the security services and government-supported militias in Southern Kordofan. In November 2008, Gadim was identified in documents leaked from the Joint Chiefs of Staff in Khartoum as the ‘receiving officer’ for weapons sent to Hawazma in Southern Kordofan. An NCP official speaking privately admitted the documents detailing the ‘armament of tribes’²⁶ were genuine, and said weapons were distributed because of indications that the Darfur rebels of the Justice and Equality Movement (JEM) were preparing an offensive in Southern Kordofan. The arms sent to Gadim included AK-47s, 7.62 mm machine guns, and mortars.

The second body, the Council of Wise Persons, a 140-man advisory body formed in September 2009, has as its secretary general another former PDF leader—Adam al Faki, famed for having participated in the Tullushi offensive of 1992, the biggest of the entire war. “Forces surrounded the mountain. They were fighting the SPLA, but they would shoot anyone who was in front of them... The whole of Tullushi was burned, not a single village escaped.”²⁷

CPA Implementation

Almost as soon as the CPA was signed, the Nuba fell off the international radar again as first Darfur, then Abyei, and most recently the referendum in the South monopolized attention, effort and resources. Insufficient attention was paid to exerting pressure on the NCP to effect the changes needed to transform a ceasefire into a sustainable peace. In August 2009, church and traditional leaders reviewed CPA implementation in the two states. They acknowledged that the CPA had brought “freedom of movement and of expression (and) a measure of security and stability which has allowed many formerly displaced citizens to return to their home areas”.²⁸ But they said CPA implementation was flawed by “unequal development and provision of services (...), the failure to fully remove military forces from civilian areas, and incomplete power-sharing.”

Security

One of the guiding principles in the debate on security arrangements during the CPA negotiations was that downsizing of all forces to acceptable peacetime levels should begin at the start of the interim period.²⁹ But despite a general recognition that Southern Kordofan could be the touch paper of a future conflict, the final provisions for the state were weak and unclear. Implementation even of these has been contentious and SAF troop movements in violation of the CPA are frequent, often explained away to UNMIS as rotations or assignments to Darfur. With international focus on the North-South axis, North-North issues have been allowed to fester.

Almost 40% of Southern Kordofan is currently off limits to UNMIS troops, both because of an interpretation of the UNMIS mandate at the political level³⁰ and because of SAF restrictions that have not been forcefully challenged by the UNMIS force commander.³¹ As a result, UNMIS is unable to access SAF strongholds and strategic and politically important locations where hostilities are most likely to break out and from where proxy forces may operate, and has been unable to verify, or disprove, troop movements and mobilization from either side within these key areas. It has noted increased movement of tanks, vehicles and troops in recent months—especially towards the 1956 line—but is uncertain of the extent and final destination.

The Nuba Mountains protocol contained a single, apparently contradictory paragraph on security arrangements: “Without prejudice to the Agreement on the Security Arrangements and the right of Sudan Armed

Forces (SAF) Command to deploy forces all over North Sudan as it deems fit, SAF troop levels in Southern Kordofan/Nuba Mountains and Blue Nile during the Interim Period shall be determined by the Presidency.”³² An annex to the CPA, after Nuba took their concerns to SPLA Chairman John Garang, specified that all forces should be “redeployed to assembly points”³³ and “the parties shall begin the negotiations on proportionate downsizing” once SAF forces withdrew to the North.³⁴

The SPLM/A interpretation of this is that the presidency must agree how many SAF forces were in Southern Kordofan before the war (1983-85) and issue a decree downsizing them to that level—which the SPLM/A claims is one battalion, with companies in Dilling, Tolodi, Toroji and Kadugli. SAF’s interpretation is that it can deploy forces all over Southern Kordofan “as it deems fit”. To which the SPLM/A responds: “If they have the right to be everywhere, why JIUs and assembly areas?”³⁵

This absolutely fundamental disagreement has never been resolved. After the CPA, talks on downsizing faltered. SAF forces did not move into assembly points. Six years on, there has been no decision from the presidency, and debate over the security chapter of the CPA has centred on NCP accusations, routinely echoed by UNMIS, that while SAF withdrew all its forces from the South, a majority of SPLA forces remained in the North. The controversy lingers on, fuelled by an early over-estimation of SPLA strength in Southern Kordofan by governor Jallab, who gave a figure of 22,000, and by uncertainty over whether the main SPLA redeployment site at Jau on Lake Abiad is in northern or southern Sudan. This meant that the numbers redeployed south of the 1956 line were always too few, counted most recently as 37% of the total.

Today senior SPLA officers in Southern Kordofan claim that SAF is “preparing for war all the way along the border.” They claim SAF divisions recast as brigades in 2009 remain at division strength; four separate brigades that arrived in 2008-09 constitute another, unacknowledged division; and 40-barrel Katyusha rocket launchers, B-10 anti-tank guns and 120 mm mortars have been moved to the border area.³⁶ Deputy governor al Hilu says that despite agreement that SAF would move into 15 assembly points, it now has 55,000 troops in more than 100 garrisons—“more than needed to control Southern Kordofan; more even than at the height of the jihad.”³⁷

Local authorities have reported that SAF is reactivating

old garrisons inside the mountains, billeting troops in schools, and introducing light artillery including 105 mm howitzers in areas that previously were artillery-free.³⁸

SPLA commanders believe the build-up is designed to influence the state elections scheduled for April 2011, “to crush the SPLA forces at Jau if the Nuba claim their rights”, and to occupy the border by force and/or attack southern oilfields if that is the decision. In Toroji, 17 kilometres from Jau, 24 Nuba elders defected from the NCP to the SPLM in August to protest the ‘concentration’ of troops in the area and the “occupation of institutions that are supposed to benefit the community.” In letters to state officials dated 26 November, they said “civilians are facing problems from the garrison in Toroji”—among them, the use of the hospital as a garrison and the stores for ammunition. “This is building up hatred in the community. Now we are threatened with the closure of shops from 4 pm. They block the roads. This security threatens us.”

The SAF commander in Toroji slapped a ban on community meetings, warning that those who ignored the ban “will be held responsible.”

The Central Reserve Police (CRP), a military force in all but name, has also been beefed up—from a few dozen men to more than 7,000, by its own count³⁹—and deployed mainly in the former Western Kordofan, where Missiriya elders say the Darfur rebels of the Justice and Equality Movement (JEM) are recruiting energetically and where more than 200 people died in clashes with government forces in November and December 2010, by UN count. Khartoum is responding with its own recruitment drive, playing on the Missiriya conviction that the SPLM is ‘cheating’ Arabs of their rights in Abyei.⁴⁰

Among irregular forces, the PDF, a main vehicle of the jihad in the Nuba region and even today described as a force of *mujahedeen* or holy warriors, continues to have thousands of men under arms in contravention of the CPA, which required that they be incorporated into SAF or disbanded.⁴¹ Documents made public by the SPLM in January 2011 appear to show that more than 10,000 new weapons were dispatched to the PDF in Southern Kordofan in December 2010. Marked ‘Top Secret’ and ‘For the use of warehouse administration only’, and originating with PDF headquarters in Khartoum, the documents authorize, and confirm, the delivery of submachine guns, rocket-propelled grenades and mortars.

In addition to arming the PDF and Arab tribes, the army

and security services support a number of Nuba militias that could, if the ceasefire collapses, exacerbate the divisions that have opened in the SPLA since the end of the war. The most important of these militias are headed by two former SPLA commanders, Telefon Kuku from Buram and Kafi Tayyara from Shatt Damam. Each is believed to have more than 1,000 men under arms. Tayyara’s Islamist militia has little or no political credibility or clout but is well-armed and belligerent, blamed for the destruction of 50 churches in the south-west of the Nuba Mountains. After the ICC indicted President Bashir in 2009, an estimated 500 men equipped with new guns and uniforms marched through the streets of Kadugli shouting “Omar Bashir, oyee!” Kuku is currently under arrest in Juba, accused of mobilizing SPLA troops to fight against the CPA. He is expected to be released after separation, when some in the SPLM fear the rise of new leaders could cause fragmentation similar to that seen among the Darfur armed movements.

A third militia portrays itself as being connected to the SPLA but is in reality headed by a Hawazma Arab and former SAF sergeant, Al Balola Hamid Abdul Bagi, whom the SPLA accuses of attempting to divide and discredit the SPLA at the behest of the National Intelligence and Security Service—including with acts of banditry and looting.

While Southern Kordofan has remained highly militarized, the Joint Integrated Units, designed as a pillar of support to the CPA and the core of a new national army, have been systematically undermined. Despite the hope that they would evolve into a professional army capable of supporting disarmament, as well as the elections and the referendum, the JIUs have not begun to be integrated (except at the administrative level). SAF and SPLA never trained together, were never armed together, never had even a communal mess. Some SAF and SPLA units are as far as 30 minutes walk apart. The lack of international support for the JIUs speaks volumes about the lack of focus on the CPA: for more than three years, the only country providing any material support to the JIUs was Britain.⁴²

Disarmament of ex-combatants, through disarmament, demobilisation and reintegration (DDR) programmes, has not moved beyond ‘special needs groups’—women, elderly and disabled—in part because of the continued tensions within Southern Kordofan, in part because of reported mismanagement by the United Nations Development Programme, which administers the money for DDR work. An internal UN document cited by the New York Times in December warns that the programme could be ‘unsustainable’ in 2011 without more money,

and that “no contingency plan exists.”⁴³ Many communities believe the organizations working on disarmament lack commitment and are neither effective nor trustworthy.⁴⁴ Others say DDR is ignoring SPLA affiliates and is biased to the PDF—including by registering men who never carried arms and received compensation for handing in toy guns.⁴⁵

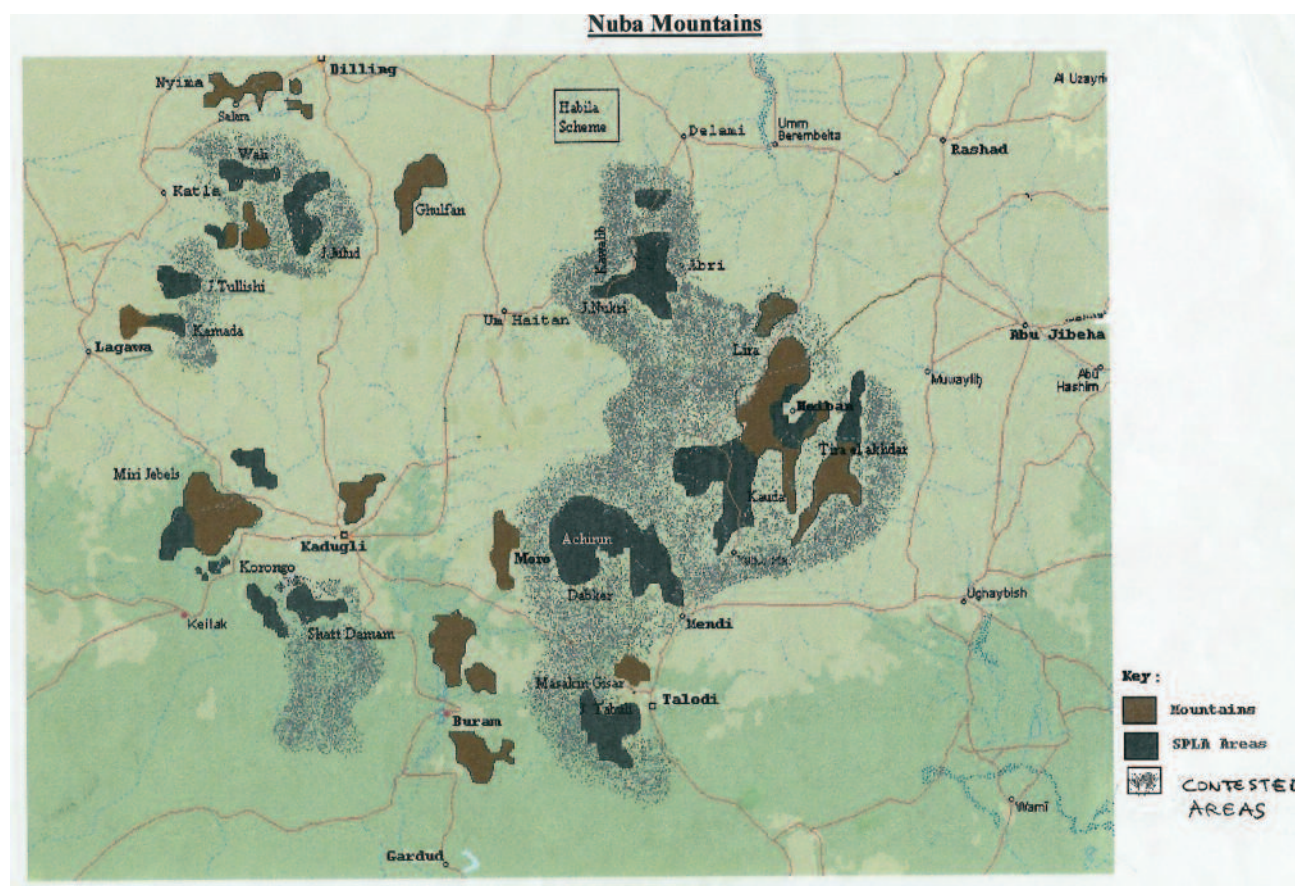
Despite the use of tribal militias during the jihad, and the ubiquity of small arms in civilian hands, there is no effective civilian disarmament programme.⁴⁶ A strong, bi-partisan land commission that delimited nomadic routes, determined land ownership and set out procedures for dealing with land disputes, coupled with a campaign for civilians to hand in their arms and training for police to strengthen the rule of law, would begin to address the reason most civilians carry arms—fears of losing their land and/or cattle. Since the Haroun al Hilu partnership began, SPLA police have begun to be integrated into the national force, but in a manner that has in itself deepened concerns. SPLA officers were sent to Khartoum for training, but were then stripped of a rank and assigned to other parts of northern Sudan. Not a single police officer from the former rebel movement serves in Southern Kordofan today.⁴⁷ Many in the lower ranks were assigned to the CRP, and sent to Darfur.⁴⁸

Any remaining doubts among the Nuba about the NCP’s commitment to unifying security forces were dispelled with the exposure, in December 2008, of a directive to the director general of police from Defence Minister Abdul Rahim Hussein. Headed ‘Police Integration Process’, it said: “In case of integration of SPLA personnel as officers, (non-commissioned officers) or men, the following must be observed:

1. Do not put integrated forces in decision-making positions.
2. The process of integration must be slow and cumbersome... in order to avoid (inculcating) destructive secular ideas into our forces.”

Land

The single most important cause of the outbreak of conflict in the 1980s was the encroachment of mechanized agriculture—on small Nuba farms but also Baggara transhumance routes. This accelerated after the Unregistered Land Act of 1970 gave a legal basis for large-scale acquisitions. Leases granted to absentee merchants, officials and retired army officers caused massive displacement of Nuba farmers to less fertile areas, often deep in the mountains, and forced Baggara to re-route their herds through Nuba farmland, bringing the two



Fotocredit: Justice Africa

communities into frequent conflict.⁴⁹ The CPA deferred the land question to the post-agreement phase, proposing national and state commissions to resolve issues of ownership, access and use rights—most critically, the disconnect between customary and statutory law that means that most rural lands falls by default to government ownership.⁵⁰ Six years after the CPA, neither commission is active. Gov. Haroun has formed a committee to prepare for a state commission, but has told his SPLM partners that the national commission must precede it. Administrations in Southern Kordofan and Blue Nile have been given “substantial legal assistance (including from the insufficiently-funded USAID-funded Customary Land Security Project) to establish workable and fair land principles in their Constitutions... (But) on the advice of central government, these suggestions were rejected by both State legislatures, both heavily dominated by northern National Congress Party representatives.”⁵¹ Despite the commitment contained in the CPA to remedy past grievances, more land is being allocated to outsiders. “Much greater financial, technical and programmatic commitment on the part of the international aid community is necessary.”⁵²

Power-sharing and integration

“The political recovery challenge in the CPA is first integration (of SPLM into government) and decentralization and second democratization.”⁵³ Despite a late push by Haroun and al Hilu, integration in Southern Kordofan is still incomplete, both in government and civil service, and feelings of marginalization persist.

The weakness and inexperience of many SPLM cadres is a problem. But so too is political will in Khartoum. Gov. Haroun has told SPLM counterparts that the current figure of 4,200 SPLM members to be given government jobs, down from an original 8,000, cannot be increased for the moment because of inadequate central funding (despite, and in part because of, heavy expenditure on defence, policing and the military, which official records show stood at more than USD 2 billion in 2009-10.) Even with the 2% of national oil revenues allocated to Southern Kordofan going to pay salaries, the state’s payroll budget runs a permanent deficit. In November 2010, it was SDG 3 million (USD 1.3 million)—27% of the total.⁵⁴

After a slow start, power-sharing has been implemented at executive and legislative levels but to a very limited degree in the civil service, even in the education and health sectors prioritized by Haroun and al Hilu. Of 11 director generals, four are SPLM. Below that level, the percentages are considerably smaller. In the ministry of

social affairs, for example, only four employees are SPLM.⁵⁵ In education, 826 SPLM teachers have been integrated, on paper, out of a total of rather more than 1,000. But only half have received salaries for more than two months and none for more than five months.⁵⁶ Many were obliged to submit the originals of their personal and professional certificates, and retain only photocopies—to ‘bind’ them to the NCP, they say.

Most of the former SPLM areas in the Nuba Mountains have in theory been integrated into the rest of the state—through the construction of new roads, most of them gravelled and good for only a year, and the creation of new localities with commissioners reporting to the governor. But institutional integration is still limited. In education, two different curricula still run in parallel. SPLM-administered schools have received nothing from the central government, according to the director general of education in the formerly SPLM-controlled areas (now known as the ‘selected areas’). “Not a piece of paper or a drop of ink. The government is building schools with concrete and fences and promising to equip them if they shift to the Arabic curriculum (rather than the SPLM’s East African curriculum). Everything is politicized.”⁵⁷

Most of those accepted into the health service—as yet only a sixth of those approved—are still unsalaried.

Many in the SPLM believe the little integration there has been has been “tactical, to keep us engaged even as they were picking and choosing and creating divisions among us.”⁵⁸ With the NCP insisting that the SPLM in the North will end with the CPA, many believe that integration will end, too, further diminishing hopes that change can come through peace.

Wealth-sharing and development

Southern Kordofan has historically suffered from lack of basic services, acute underdevelopment, disproportionate economic marginalisation and rampant poverty. In 2003 a World Bank study ranked it the second worst state for child mortality in Sudan.⁵⁹ Little progress has been made since 2005, with unemployment, poverty and lack of services for farmers and pastoralists undermining confidence in the peace process and encouraging calls for renewed armed struggle if peace fails to deliver. Although the CPA provided for 2% of Sudan’s oil wealth to go to Southern Kordofan, most of this has been diverted to putting more employees on the state payroll and in CPA commissions. Many now expect funds to be diverted to campaigning and political propaganda in anticipation of April’s state elections.⁶⁰

A 2009 report by the International Organization for Migration (IOM) highlighted insufficient access to water and particularly improved drinking water as the major concern in the state.⁶¹ Seventeen per cent of villages assessed had unprotected wells. On average 714 people shared each improved water source. Although hand pumps had been established in 59% of the villages surveyed, 41% were not working. Communities rated lack of access to healthcare as their second major concern. Only 19% of villages had healthcare facilities. In villages without a healthcare facility, logistical constraints such as inaccessible roads, lack of public transport, or lack of financial means hindered access to facilities elsewhere. Most existing facilities lacked qualified personnel. Only 3% had a doctor.

A main vehicle established by the CPA to develop the two protocol states, under the heading of “the conflict-affected areas and the least developed areas of Northern Sudan”, was the National Reconstruction and Development Fund (NRDF), to be set up by the National Treasury “with appropriate representation from such areas.” Seventy-five per cent of the fund was allocated to war-affected areas, “particularly to Southern Kordofan/Nuba Mountains and Blue Nile States... with the aim of bringing these areas to the national average standards and level of development.” The NRDF became especially important after the World Bank’s Multi-Donor Trust Fund (MDTF) targeted ‘economically active’ areas least affected by the conflict.⁶² But the size of the NRDF was not specified, and state officials have been unable to obtain details of its transfers to Southern Kordofan. In January this year, the Parliamentary Assessment and Evaluation Commission (PAEC) for Southern Kordofan, a body mandated to monitor CPA implementation, was told at a meeting with the Fiscal and Financial Allocation Monitoring Commission (FFAMC) in Khartoum that the NRDF has been replaced by emergency funding, equally unspecified. The FFAMC, set up “to ensure transparency and fairness” in the allocation of nationally collected funds, has itself been criticized for lack of transparency.⁶³ Pooled funding mechanisms like the MDTF proved to be inadequate instruments for recovery assistance and frequently “suffered from a clear lack of in-depth analysis and understanding of the history, society and dynamics of the conflict.”⁶⁴

There is little international presence in the state and funding has been limited to such a degree that some of the relatively few INGOs present have considered closing down for lack of support.⁶⁵ Paradoxically, INGO capacity in war-affected areas of the mountains decreased after the CPA as agencies that been serving SPLM areas from Nairobi and Southern Sudan came under pressure to

operate from Khartoum, with attendant difficulties and delays. A second blow came with the ICC’s indictment of President Bashir, which prompted the immediate expulsion by Khartoum of 13 INGOs working in Darfur. Many of those expelled were also active in Southern Kordofan, where the health and education sectors were especially hard hit. The future of the few agencies still accessing the state from the South is uncertain. The oldest, German Emergency Doctors (GED), has so far failed in its attempts to get the registration it needs to work in a separate northern state. In 2010, GED attended more than 76,000 patients, including almost 2,000 inpatients and 6,000 pregnant women, and vaccinated more than 9,000 children and pregnant women.⁶⁶

The SPLM acknowledges that it failed to manage unrealistically high expectations about the likely peace dividend from the CPA. But there is little logic to much of the development that has followed, which CPA monitors have criticized for doing too little to deliver “meaningful improvements in the everyday lives of the population.”⁶⁷ While some villages still have no water, Kadugli has a new multi-million dollar football stadium and park, and new ministries are being built on the outskirts of the town. But a half-a-million dollar water study has not been funded and “women are dying in Kadugli hospital because there are no drugs.”⁶⁸ Doctors in a new government-built hospital in Kauda, an SPLM/A stronghold in the war, were recalled to Khartoum after the 2010 general elections, fuelling suspicions that much of the development the state is seeing is ‘political development’.⁶⁹

In the former Western Kordofan, which has a high concentration of unemployed and illiterate former PDF fighters, Missiriya who feel they have lost more than they have gained from the CPA complain of poor infrastructure, non-existent public services, and lack of job opportunities in oil projects. “There is no development,” says Younis HabiballaYounis, a government employee. “The little that is coming is coming for the Nuba because they took up arms. The Missiriya have lost confidence in the centre, including their own leaders. But there’s also a feeling that the international community wants to treat the Missiriya as second-class citizens.”⁷⁰

Calling for improvement in the pace of development and the spread of effective government, the Assessment and Evaluation Commission (AEC), mandated to monitor and investigate CPA implementation, warned in its 2010 report that “more needs to be done to deliver a tangible high impact peace dividend to local communities, especially away from the larger towns, in order to persuade them that peace is worth preserving.”⁷¹

Oversight

The international community paid little attention to the war in the Nuba Mountains. During the period of massacres and forced relocations, the UN and the diplomatic community in Khartoum knew too little and did too little to find out. With UNMIS under pressure to leave Southern Kordofan by July 2011, and access for INGOs slower and more arduous than in Darfur,⁷² the state risks another period of international isolation and hardship if security breaks down. One of the few successes of the post-ceasefire period—the establishment of an international presence in a hard-to-access front-line region—may be drawing to a close.

After the positive experience of the JMC—a small, proactive operation built on teams of one international, one GoS and one SPLM/A monitor—the 800 UNMIS peacekeepers deployed in Southern Kordofan since the CPA have been a missed opportunity in a critical moment. While the JMC focused on community relations, including cross-line dialogue, UNMIS troops have had little contact with or impact on local communities. While the JMC improved roads and built airstrips, UNMIS let heavy machinery and engineering equipment that could have been used to promote recovery and rehabilitation lie idle in its Kadugli headquarters. While the JMC disarmed combatants and enforced a robust inspection regime of surprise visits, often followed by return visits, UNMIS tolerated armed checkpoints only a few kilometres away from its own barracks.⁷³

Under UNMIS' first head of office in Kadugli, Karen Tchalian,⁷⁴ security across the state deteriorated and UNMIS stood accused, including by other internationals, of strong bias to the NCP. UNMIS officers in the former SPLM areas complained of a lack of support and interest, as well as resources, and said their reports of unauthorized SAF troop movements and arms deliveries to Arab militias were routinely ignored. They said the rules under which they were operating, including giving SAF a week's notice of inspection visits, made it possible for weapons to be hidden and troops to be moved, and limited their ability to predict and prevent.

Given the ineffectiveness of the JIUs, and the lack of visibility of SPLA forces, UNMIS needed to assume a more forceful role after the redeployment of the SPLA to instil confidence in the CPA. Instead, the peacekeepers argued that their mandate was limited to reporting as

the PDF was reorganized, SAF upsized, and Arab tribes re-armed. Their failure to forcefully oppose SAF restrictions on their deployment in many parts of Southern Kordofan seriously damaged the quality of their intelligence, the key to any strategy to protect civilians from violence.

Since Tchalian's departure, new leadership in Kadugli has made a determined attempt to improve the performance and the standing of UNMIS in Southern Kordofan, despite the continued presence of Egyptian troops who are criticized, strongly, by both sides—by Gov. Haroun for 'arrogance' and by the SPLM/A for accepting the no-go areas imposed by SAF while refusing to take SPLA complaints seriously.⁷⁵ Reports of SAF occupying schools have been investigated and confirmed. In several locations, troops have moved out and classes have resumed.

Distracted and overstretched by Darfur, the international community failed to place and resource UNMIS at least to understand the region and its centrality to the future stability of Sudan. Suggestions that UNMIS observers, protection force and civil affairs officers be reoriented towards Southern Kordofan and Blue Nile, taking a risk in Equatoria and Bahr el Ghazal, fell on deaf ears.

"The North will get away with horrors in Nuba again," a western military observer warned in Tchalian's time. "The UN would probably be able to *do* little. But right now it *knows* too little."⁷⁶

The Assessment and Evaluation Commission, the second international body with a mandate for CPA implementation, has been handicapped by restrictions imposed by the NCP and SPLM on freedom of movement and expression.⁷⁷ The AEC's first chairman, veteran Norwegian diplomat Tom Vraalsen, said he had been "subject to severe limitations on both accounts" and urged the Commission to "open up for public view", as "one measure through which the public can be better informed and in a position to contribute to implementation of the CPA". Vraalsen criticized the parties, and the Commission's international members and observers, for failing to make "pro-active use of the Commission". This meant, he said, that the AEC had operated only as a "passive monitoring agency".⁷⁸

Under-resourced, the AEC has visited Kadugli only twice

in five years. Although the AEC's four working groups include one specific to the so-called Three Areas,⁷⁹ within these areas it has focussed on Abyei and Jau. Its last report contained only seven short paragraphs and three recommendations on Southern Kordofan—increasing the pace of development and the spread of effective government; further improvement in the overall security situation in the two states; and credible popular consultations before the end of the interim period.⁸⁰

A separate, state-level body, the Parliamentary Assessment and Evaluation Commission, co-chaired by the NCP and SPLM, has special responsibility for Southern Kordofan and Blue Nile.⁸¹ But formation of the PAEC was delayed for three years—purposefully, the SPLM alleges, to inhibit checks on CPA implementation. It wasn't until July 2007 that President Bashir signed the decree appointing its members, and even then they were not informed of their appointments for a further seven months. PAEC's funding today is less than 50% of needs and barely supports half-a-dozen hearings annually. Cooperation between NCP and SPLM at state level is reportedly good, but reports on CPA implementation submitted to the presidency, as required by the CPA, receive no reaction or response.⁸²

The PAEC's first report is currently scheduled for publication around the time of April's state elections.



Conclusion and recommendations

The CPA treated Southern Kordofan as an afterthought, and failed to resolve the major elements of the conflicts in the Nuba Mountains. Popular consultation, the mechanism for addressing the grievances of the Nuba people, is a weak procedure without guarantees on the completion or implementation of its outcomes, especially once the CPA comes to an end on 9 July. The procedure would have been workable only in the context of a strong ongoing political partnership between NCP and SPLM, and a southern vote for unity in the referendum. With neither of these conditions in place, the future of the Nuba people, and especially those who are members of SPLM/A, looks extremely uncertain.

Despite reassurances by Gov. Haroun in the run-up to the referendum—including during a visit to the SPLA troops at Jau—uncertainty has translated into anxiety and increasingly clear calls for the exercise of self-determination.

The root causes of the war in Southern Kordofan have not been addressed in the last six years. Land-related conflicts have multiplied, exacerbated by the return of more than half a million refugees and displaced, the impact of new roads and tractors, and the expansion of oilfield infrastructure—most damagingly in the Heglig-Kharasana area, the most heavily militarized part of Southern Kordofan but out of bounds for UNMIS military personnel. There is little confidence between communities. Tensions between farmers and pastoralists have grown as Baggara groups have attempted, often unsuccessfully, to negotiate access to SPLM-controlled areas. In some areas permission has been denied; in others, pastureland has been burned to keep them out. Pastoralists and farmers fear that in the coming months political manipulation of resource and tribal conflicts will increase either for electoral reasons or, even more damagingly, in the absence of elections. Observers say a running theme in the 2010 elections was “If the Nuba are victorious, they will chase you from the land”.

Both communities are vulnerable. Arab pastoralists already concerned that the outcome of the referendum will affect their access to traditional grazing in the South may feel they need NCP support, and logistics, to protect their position in Southern Kordofan—especially if unresolved problems in Abyei catalyze other border conflicts. Nuba fear that a breakdown of security after

the referendum will lead to a resurgence of government militias, with the promise of land as the prize, as it has been in Darfur. Missiriya are already being courted by JEM, which has lost ground in Darfur and needs new allies through whom to pressure Khartoum. And many Nuba are talking of an alliance of marginalized northerners, and especially Darfurians, to fight for democratization in an NCP-controlled North Sudan.

The major issues arising from the failure of the CPA to deliver national unity need to be addressed urgently. Prominent among these are the future of the SPLM—including whether it will be part of a re-invented SPLM-Northern Sector, or whether the NCP will demand that it is dismantled altogether—and the future of SPLA combatants, both those in their home areas and those currently stationed in Southern Sudan. Statements by the SPLM leadership in Southern Sudan, that they will continue to pursue the “New Sudan” agenda in northern Sudan, combined with the fact that the SPLM in Southern Kordofan continues to report to Juba as part of the SPLM-Southern Sector, fuel the fears in the NCP leadership that the Nuba will launch a new insurgency—with the aim of either regime change in Khartoum or separating the two areas to attach them to South Sudan. Without a high-level political pact between the NCP and SPLM, the preparations for the popular consultations are merely fuelling high expectations among the population, and fears among the NCP and security services. As a result, the elections are running into quiet obstruction, while Islamists have begun to mobilize for a new confrontation.

Evidence is emerging, too, of obstruction in preparations for the popular consultation process. Several Nuba engaged in explaining the process to communities were arrested in January and detained for a week. NCP supporters are portraying the process not as what it is—an evaluation of CPA implementation—but rather as a way for the SPLM to separate the region from the North and join it to the South.⁸³

A more immediate problem, and a certain cause of conflict if not addressed, is the future of the Nuba fighters, who the NCP insists can only return to Southern Kordofan as civilians. SPLA commanders claim they can mobilize 30,000 men in Southern Kordofan. They say they will not stay in the South after secession and will not accept to live under SAF as the only military force in the state. “We have not achieved

our aims and we are not going to surrender. Even the South is not going to convince us to surrender.”⁸⁴

The relative peace established by the Haroun-al Hilu partnership is built on sand, too little and too late to create genuine confidence between communities and turn the 2002 ceasefire into a sustainable peace before time runs out on the CPA. Amid re-arming and failed disarming, it is hard to see how the partnership can survive a contest for the governorship in April’s state elections.

Under its new and reinvigorated leadership in Kadugli, UNMIS has begun considering contingency plans for civilian protection, acknowledging that it is constrained by many factors including the region’s lack of international profile and its own limited resources, including troops—“a powerfully weak fighting force”, in the words of US special envoy Scott Gration. An initial suggestion of “safe havens” failed to win the support of INGOs, most of which are development agencies not set up for risk management. They believe “there will be flashpoints all the time for the next six months” and say that although agencies “are queuing up to come in from Darfur”, anticipating increased need, bureaucratic impediments in Khartoum mean INGO capacity is unlikely to increase.⁸⁵

Recommendations to the Government of Sudan and Government of South Sudan, and the international community:

- Ensure there is a strong focus on Southern Kordofan, and in-depth analysis of the links with Darfur, Abyei and South Sudan.
- Press the NCP and SPLM to commit to ongoing power-sharing in South Kordofan following April’s elections, so that those elections can proceed with both parties’ confidence in their respective political representation in the new state administration and popular consultations.
- Urgently draw up a post-referendum plan for Southern Kordofan—crucially, an internationally mandated mechanism to oversee implementation of unfulfilled CPA commitments beyond the end of the CPA.
- Explore ways of disarming civilians and former militia fighters who are unaffected by standard DDR and troop reintegration programs.
- Encourage high-level interventions to require that SAF levels be reduced to peacetime levels, defined jointly by the two presidents (in Khartoum and Juba).
- Explore options for the absorption of SPLA units into a post-CPA SAF.
- Seek agreement for UNMIS to deploy more widely in Southern Kordofan, especially in the former Western Kordofan and Heglig area, and encourage a bigger footprint by UN agencies including UNICEF and the World Food Programme.
- Resource UNMIS to improve its intelligence-gathering and quick-response capability, remembering the success of the JMC. Improve information-sharing between UNMIS in Southern Kordofan and UNAMID in Darfur, and urge UNMIS to collaborate more closely with other groups collecting information.
- Prepare post-CPA options for a new international presence in Southern Kordofan and Blue Nile, examining non-UN options in the case of government objections to UN troops.

Notes

- ¹ *Choose Life: a Vision for a Peaceful Sudan, Sudanese church position paper on the current political situation, the referendum and popular consultations in 2011 and beyond*, 5 May 2010.
- ² *Protocol Between The Government of Sudan (GOS) And The Sudan People's Liberation Movement (SPLM) On The Resolution of the Conflict In Southern Kordofan and Blue Nile States*, Naivasha, Kenya, 26 May, 2004. This became Chapter V of the CPA.
- ³ www.smallarmssurveysudan.org/.../HSBA-Armed-Groups-Kordofan-flows.pdf
- ⁴ The latest census, approved in October 2010, put the population of Southern at Kordofan 2,508,268. The inclusion of much of the former Western Kordofan, at the time of the CPA, added more than half a million Arabs to the population of an expanded Southern Kordofan, changing the ethnic balance of the state. The census put the population of the Nuba Mountains area, as defined by the SPLM, at almost two million. It does not distinguish among tribes.
- ⁵ A generic term for the cattle-herding tribes that spend the rainy season in the sandy areas of Northern Kordofan before moving southwards into the Nuba Mountains during the dry season.
- ⁶ *Evaluation of political and security plans and strategies for political parties in the coming period. No. 11*. Undated. Leaked by an NCP official to the SPLM after Vice President Ali Osman Mohamed Taha's visit to Southern Kordofan in August 2010.
- ⁷ Interview with 1st Lt. Khaled Abdul Karim Saleh, former head of security in the Office of the Governor of Kordofan, Bern, Switzerland, 13 June 1995.
- ⁸ Statement by Khaled Abdul Karim after he sought political asylum in Switzerland, October 1993.
- ⁹ A fatwa issued in April 1992 to "legalize" the jihad claimed that the rebels' "main aims" were "killing Moslems, desecrating mosques, defiling the Koran, and raping Moslem women". Many senior SPLA commanders, including Kuwa, were themselves Moslem.
- ¹⁰ Interview with Khaled Abdul Karim.
- ¹¹ UNMIS is hoping to get at least a six-month extension past July 2011. Sources close to the NCP say the organization is "in denial".
- ¹² *Sudan's Bashir sees Islamic law, defends flogging*, Reuters, 19 December 2010.
- ¹³ Interviewed in Julud, November 2010.
- ¹⁴ This began in 1995, with a book, *Facing Genocide*, by African Rights and a film, *Sudan's Secret War*, by the BBC. A secret humanitarian airlift by a handful of agencies followed, allowing a degree of access to outside observers.
- ¹⁵ *Historic Political Developments in Nuba Mountains Region*, Nuba Vision, January 2003.
- ¹⁶ *Naivasha Accord fails to Address Nuba Grievances*, Nuba Survival, 4 January 2005.
- ¹⁷ Protocol Between The Government of Sudan (GOS) and the Sudan People's Liberation Movement (SPLM) on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States. Naivasha, Kenya, 26TH May, 2004:" 2. Definition of the Two Areas:2.1. The boundaries of Southern Kordofan/Nuba Mountains State shall be the same boundaries of former Southern Kordofan Province when Greater Kordofan was sub-divided into two provinces" p.3
- ¹⁸ If negotiations between the state legislative assembly and the government do not reach agreement in 60 days, there must be reference to a committee formed by the Council of States. If this mediation fails, there is further reference to an arbitration body not specified in the Act.
- ¹⁹ The NCP rejects the terms "marginalized" and "minorities". They are not mentioned in the CPA
- ²⁰ Interview with al Hilu, Khartoum, September 2010
- ²¹ The census results jumped from 1.4 million at the first count to 2.5 million at the second. Under deputy governor Daniel Kodi, the SPLM initially boycotted the first count and then rejected it, arguing that it was partial and the geographical constituencies unfairly determined.
- ²² *Facing Genocide*, p. 121.
- ²³ Confidential interview, Kadugli, December 2010.
- ²⁴ Negotiation insiders say Nafie has lost only one policy battle with the NCP, arguing at an emergency meeting of the party's Shura council that the southern referendum should be blocked.
- ²⁵ *Facing Genocide*, p. 61.
- ²⁶ The heading of a note, dated 21 October 2008 and marked "Personal and Confidential", from Defence Minister Abdul Rahim Hussein, authorizing shipments to ten representatives of Arab tribes.
- ²⁷ *Facing Genocide*, pp. 114-118.
- ²⁸ Joint Blue Nile and South Kordofan People's Forum, Kosti, 5-7 August 2010.
- ²⁹ *Prospects for Peace in Sudan*, Justice Africa, September 2003.
- ³⁰ The government denies access to part of UNMIS Sector VI north of the Abyei border and to a part of Sector IV which it claims is not part of the Nuba Mountains ceasefire zone.
- ³¹ With the exception of Jau on Lake Abiad, which the SPLA claims lies in Southern Sudan, the areas closed to UNMIS are under the control of SAF, which usually denies access on "security" grounds.

- ³² Art.10.1
- ³³ *Annexure I, Permanent Ceasefire and Security Arrangements Implementation Modalities and Appendices*, Art. 8.3.
- ³⁴ *Ibid*, Art. 19.
- ³⁵ Interview with SPLA Brig. Jagod Makwar, at the time commander of the SPLA JIU forces, Um Sirdiba, March 2008.
- ³⁶ Interview with Brig. Jagod Makwar, Kadugli, at the time commander of the SPLA forces at Jau, November 2010.
- ³⁷ Interview with al Hilu.
- ³⁸ Interviews in Lagawa, Julud and Kadugli, December 2010.
- ³⁹ This is the government's own figure, from a document dated 21 February 2009.
- ⁴⁰ Confidential interviews, Lagawa, December 2010.
- ⁴¹ Estimates of PDF strength hover around the 20,000 mark. Ethnically mixed during the war years, the PDF is today almost exclusively Arab.
- ⁴² This included regular in-country language training, a relatively large de-mining training package and a steady trickle of JIU officers to courses including at Sandhurst.
- ⁴³ *Peace hovers in Sudan, but most soldiers stay armed*, New York Times, 30 December 2010. http://www.nytimes.com/2010/12/31/world/africa/31sudan.html?_r=1&pagewanted=2
- ⁴⁴ Confidential report based on community risk mapping workshops conducted in May-June 2010 by the Reconciliation and Peaceful Co-existence Mechanism in collaboration with the Southern Kordofan DDR Commission and UN agencies.
- ⁴⁵ Interview with Zeinab Balandia, director of the Ru'ya association.
- ⁴⁶ UNDP runs a weak community security and arms control programme.
- ⁴⁷ Interviews with SPLM officials, Kadugli and Kauda, December 2010.
- ⁴⁸ Interview with Arnu Longotolu, SPLM secretary general for Southern Kordofan, Kadugli, December 2010.
- ⁴⁹ *Resource access, identity and armed conflict in the Nuba Mountains*, Mohamed Suliman, 1999.
- ⁵⁰ *Making Peace Impossible? The failure to Honour the Land Obligations of the Comprehensive Peace Agreement in Central Sudan*, Liz Alden Wily, September 2010, p. 4.
- ⁵¹ *Ibid*, p. 17.
- ⁵² *Ibid*, p. 30.
- ⁵³ *Stability and Development Strategy*, Jason Matus, 2009. <http://www.scribd.com/doc/41010179/Stability-and-Development-Strategy>.
- ⁵⁴ Interview with Neroun Philip, co-chair of the Parliamentary Assessment and Evaluation Commission (PAEC), Kadugli, November 2010.
- ⁵⁵ Interview with Kaka Abo Lihemer, Lawaga, December 2010.
- ⁵⁶ Interview with Kutti Ernesto, director general of education for the Selected Areas, Kauda, December 2010.
- ⁵⁷ Interview with Kutti Ernesto.
- ⁵⁸ Confidential interview, Kadugli, December 2010.
- ⁵⁹ *Stability and Development in the Three Areas, Annex 5*, DFID, January 2008.
- ⁶⁰ The 2008 Public Expenditure Review shows that most of the peace/oil dividend went into putting more employees on the state payrolls, especially at state level and in the CPA commissions.
- ⁶¹ *State Report Southern Kordofan, Village Assessments and Returnee Monitoring*, 2009. p. 5.
- ⁶² Interview with Neroun Philip.
- ⁶³ <http://www.sudanvisiondaily.com/modules.php?name=News&file=print&sid=37065>.
- ⁶⁴ *The Long Road Home*, Overseas Development Institute, London. August 2007. pp. 11-12. <http://www.odi.org.uk/resources/download/1022.pdf>
- ⁶⁵ *Stability and Development in the Three Areas, Annex 5, Southern Kordofan: Stability and Development Analysis*, Sara Pantuliano, April 2008.
- ⁶⁶ Email from GED director Bernd Goecken, 4 January 2011.
- ⁶⁷ *AEC January 2010 report*. www.aec-sudan.org/docs/aec/2010_AEC_January_Evaluation-en.pdf
- ⁶⁸ Interview with Zeinab Balandia.
- ⁶⁹ Interviews with INGOs in Kauda, December 2010.
- ⁷⁰ Interviewed in Lagawa, December 2010.
- ⁷¹ www.aec-sudan.org/docs/aec/2010_AEC_January_Evaluation-en.pdf
- ⁷² Author interviews with relief agencies in Kadugli, December 2010.
- ⁷³ *The Long Road Home*, p. 44.
- ⁷⁴ Tchalian is now Chief of Staff of the Darfur peacekeeping force UNAMID.
- ⁷⁵ Interviews with state and SPLM/A officials in Kadugli, December 2010.
- ⁷⁶ Confidential email.

⁷⁷ The members of the AEC are representatives from the Government of National Unity (three each from NCP and SPLM), the Inter-Governmental Authority on Development (Kenya and Ethiopia) and from Italy, the Netherlands, Norway, Britain and the US. The African Union, Arab League, European Union and UN have observer status.

The AEC is mandated to publish annual reports, plus a Mid-Term Evaluation report mid-way through the interim period. The NCP and SPLM are entitled to have three representatives each in the Commission, and there can be no formal meeting or workshop in the absence of either of them.

⁷⁸ <http://www.sudanvisiondaily.com/modules.php?name=News&file=print&sid=29106>

⁷⁹ The other three are power sharing, wealth sharing and security arrangements. The AEC was chaired by Vraalsen until December 2007. Britain's Sir Derek Plumbly replaced him.

⁸⁰ http://www.aec-sudan.org/docs/aec/2010_AEC_January_Evaluation-en.pdf

⁸¹ Article 1.3 of the Southern Kordofan/ Nuba Mountains protocol.

⁸² Interview with Neroun Philip.

⁸³ The popular consultation is more advanced in Blue Nile and has been subjected to heavy pressure from Khartoum. The NCP deputy governor was recalled to Khartoum towards the end of 2010, ending positive cooperation with SPLM Gov. Malik Agar. NCP deputies in the state assembly were also summoned to Khartoum and told to follow the instructions of the centre.

⁸⁴ Interview with Brig. Jagod Makwar, November 2010.

⁸⁵ Interviews with INGO representatives in Kadugli, December 2010.

Glossary of abbreviations

AEC	Assessment and Evaluation Commission
AU	African Union
CPA	Comprehensive Peace Agreement
CRP	Central Reserve Police
DDR	Disarmament, demobilisation and reintegration
FFAMC	Fiscal and Financial Allocation Monitoring Commission
GONU	Government of National Unity
GOSS	Government of Southern Sudan
IGAD	Inter-Governmental Authority on Development
INGO	International Non-Government Organisation
IOM	International Organization for Migration
JEM	Justice and Equality Movement
JIU	Joint Integrated Unit
JMC	Joint Military Commission
LRA	Lord's Resistance Army
MDTF	Multi-Donor Trust Fund
NCP	National Congress Party
NRDF	National Reconstruction and Development Fund
NGO	Non-Governmental Organisation
NIF	National Islamic Front's
OAG	Other Armed Group
PDF	Popular Defence Force
PAEC	Parliamentary Assessment and Evaluation Commission
PRA	Peace and Resettlement Administration
RPCM	Reconciliation and Peaceful Co-existence Mechanism
SAF	Sudan Armed Forces
SCC	Sudan Council of Churches
SDG	Sudan Dinars
SLA	Sudan Liberation Army
SPLM/A	Sudan People's Liberation Movement/Army
UN	United Nations
UNDP	United Nations Development Programme
UNMIS	UN Mission in Sudan (FFAMC)



Annex 1 – CPA Protocol on Southern Kordofan/Nuba Mountains and Blue Nile States

PROTOCOL
Between
THE GOVERNMENT OF SUDAN
(GOS)
AND
THE SUDAN PEOPLE'S LIBERATION
MOVEMENT (SPLM)
ON
THE RESOLUTION OF CONFLICT IN
SOUTHERN KORDOFAN/NUBA MOUNTAINS
AND BLUE NILE STATES
Naivasha, Kenya, 26TH May, 2004

PREAMBLE:-

RECOGNIZING that the conclusion of the comprehensive peace settlement that the Sudanese people are longing for requires solving the problems in **Southern Kordofan/Nuba Mountains** and **Blue Nile States** as a model for solving problems throughout the country; and

REAFFIRMING that citizenship shall be the basis for equal rights and duties for all Sudanese citizens regardless of their ethnicity or religion; and

UNDERLINING the importance of recognizing the cultural and social diversity of the Sudan as a source of strength and unity; and

EMPHASIZING equality, fairness, economic development, social welfare and stability as overarching goals of the Sudanese people in general and the population of the conflict affected areas in particular;

NOW THEREFORE, the Parties hereby agree as follows:-

1. General Principles:

The Parties agree on the following, as the basis for political, administrative, economic and social solution to the conflict in **Southern Kordofan/Nuba Mountains** and **Blue Nile**:

1 The name of the State shall be settled before the conclusion of the Peace Agreement by a committee representing the State formed by the two Parties.

1.1. Human rights and fundamental freedoms shall be guaranteed to all individuals in the State as prescribed in the Interim National Constitution;

1.2. The diverse cultural heritage and local languages of the population of the State shall be developed and protected;

1.3. Development of human resources and infrastructure shall be the main goal of the State. It shall be conducted to meet human needs in accordance with the best-known practices of sustainable development within a transparent and accountable framework.

2. Definition of the Two Areas:

2.1. The boundaries of **Southern Kordofan/Nuba Mountains State** shall be the same boundaries of former Southern Kordofan Province when Greater Kordofan was sub-divided into two provinces.

2.2. For the purpose of this Protocol, **Blue Nile State** shall be understood as referring to the presently existing Blue Nile State.

3. Popular Consultation:

The Government of Sudan and the Sudan People's Liberation Movement (the Parties), committed to reaching a just, fair and comprehensive peace agreement to end the war in **Southern Kordofan/Nuba Mountains** and **Blue Nile States**, agree on the following:-

3.1. Popular consultation is a democratic right and mechanism to ascertain the views of the people of Southern Kordofan/Nuba Mountains and Blue Nile States on the comprehensive agreement reached by the Government of Sudan and the Sudan People's Liberation Movement.

3.2. That this comprehensive agreement shall be subjected to the will of the people of the two States through their respective democratically elected legislatures.

3.3. That the legislatures of the two States shall each establish a Parliamentary Assessment and Evaluation Commission to assess and evaluate the implementation of the agreement in each State. The two Commissions shall submit their reports to the legislatures of the two States by the fourth year of the signing of the comprehensive Peace Agreement.

3.4. An independent Commission shall be established by the Presidency to assess and evaluate the implementation of the comprehensive Peace Agreement in each of the two States. The Commission shall submit its reports to the National Government and the Governments of the two States who shall use the reports to rectify any procedure that needs to be rectified to ensure faithful implementation of the Agreement.

3.5. Once this agreement is endorsed by the people through the legislature of any of the two States as meeting their aspirations, then the agreement becomes the final settlement of the political conflict in that State.

3.6. Should any of the legislatures of the two States, after reviewing the Agreement, decide to rectify, within the framework of the Agreement, any shortcomings in the constitutional, political and administrative arrangements of the Agreement, then such legislature shall engage in negotiations with the National Government with the view of rectifying these shortcomings.

4. Structure of the State Government:

4.1. The State shall have the following structure:-

4.2 The State Executive, which shall comprise of:-

4.2.1 The State Governor;

4.2.2 The State Council of Ministers; and

4.2.3 Local Governments.

4.3 The State Legislature (SL).

4.4 The State Judiciary.

5. The State Executive:

5.1. The Governor of the State shall be directly elected by the registered voters of the State in a public adult suffrage.

5.2. The Governor shall appoint the ministers and the commissioners of the state in accordance with the State Interim Constitution. The State Council of Ministers shall be representative.

5.3. The Governor shall, together with the State Council of Ministers, exercise the Executive Powers of the State which shall be in respect of the functional areas listed in Schedules A and B, read together with Schedule C, attached hereto, and in accordance with the State Interim Constitution.

5.4. The State Council of Ministers shall be accountable to the Governor and the State Legislature in the performance of their duties.

5.5. The State shall have commissioners and elected local councils. The organization and proper functioning of the Local Governments shall be the responsibility of the Government of the State.

5.6 There shall be State Security Committee to be chaired by the Governor of the State. The Committee shall include, among others, the Military Commander of the area, his Deputy, the Director of the State Police and Director of the State National Security Branch.

5.7 Without prejudice to the provisions of paragraph 5.6 above, the Governor of the State may demand the transfer of the Director of the National Security Branch from the State.

5.8 The State Police Service shall adhere to the National standards and regulations as set forth by National Police Service.

5.9 Police, Prisons, Wildlife and Fire Brigade Officers shall be recruited by the State Service according to the National standards, trained and commissioned nationally and returned to the State for service. The other ranks shall be locally recruited to serve within the State. Recruitment and training regulations shall be designed and standardized by the National Police Service.

5.10 Without prejudice to the provisions of paragraph 5.9 above, the National Authority may agree with the State Authority to transfer any number of police officers from the State police to the National Police Service whenever necessary.

5.11 The State Authority may request the National Authority to transfer to the State any number of police officers to fill any vacancies in the State.

6. The State Legislature:

6.1. Members of the State Legislature (SL) shall be elected by the registered voters of the State in accordance with the State Law and in conformity with the general guidelines as set forth by electoral provisions as set forth by the National Electoral Commission.

6.2. The State Legislature shall prepare and adopt the State Constitution, provided that it shall conform to the Interim National Constitution.

6.3. The Governor of the State shall sign any law duly approved by the State Legislature, failing which, after thirty (30) days it shall be deemed to have been signed into law, unless the Governor has submitted the law to the Constitutional Court for a ruling on its constitutionality. If the Constitutional Court finds the law constitutional, the Governor shall immediately sign such law.

6.4. The State Legislature shall legislate for the state within its legislative powers as stipulated in schedule (A) attached herewith.

6.5. State laws currently applicable in the State shall continue until new legislation is duly enacted by the SL within its competence.

6.6. The State Legislature shall decide its own rules, procedures, and committees, and elect its Speaker and other officers.

6.7. The State Legislature may relieve the Governor of the State of his/her functions by a motion supported by two-thirds of its membership.

6.8. Members of the State Legislature and the State Executive shall have such immunities as are provided by law.

7. The State Courts:

7.1. The structures and powers of the courts of the States shall be subject to the Interim National Constitution.

7.2. The State Constitution shall provide for the establishment of such state courts as are necessary.

7.3. The State Legislature shall provide for the appointment and dismissal of state appointed judges, subject to the State Constitution and the approval of the National Judicial Service Commission.

7.4. The State legislations shall provide for guarantees for the independence and impartiality of the State judiciary and ensures that state judges shall not be subject to political or other interference.

7.5. The state courts shall have civil and criminal jurisdiction in respect of State and National Laws, save that a right of appeal shall lie to the National Courts in respect of matters brought before or heard under National laws.

7.6. The National Legislature shall determine the civil and criminal procedures to be followed in respect of litigation or prosecution under National laws in accordance with the Interim National Constitution.

8. The State Share in the National Wealth:

8.1. The National wealth shall be shared equitably between different levels of Government so as to allow enough resources for each level of Government to exercise its constitutional competencies.

8.2. The States shall raise and collect taxes and revenues as listed in Schedule (D), annexed herewith.

8.3. Oil producing state is entitled to two percent (2%) of the oil produced in that state, as specified in the Wealth Sharing Agreement.

8.4. The state shall be represented in the Fiscal and Financial Allocation and Monitoring Commission, which shall ensure transparency and fairness in regard to allocation of the share due to the state from the Nationally collected revenues and ensure that allocations due to the state are not withheld.

8.5. The general objective of the National Reconstruction and Development Fund (NRDF) is to develop the war affected areas and least developed areas in the Sudan with the aim of bringing these areas to the national average standards and level of development.

8.6. In allocating the funds to the war-affected areas and least developed areas, NRDF shall use the effects of war and level of development as the main criteria. The Parties agree to allocate seventy-five percent(75%) of the total fund to the war-affected areas, particularly to Southern Kordofan/Nuba Mountains and Blue Nile States, while the remaining balance shall be earmarked to the least developed areas.

8.7. The allocation of funds among the areas affected shall be determined during the Pre-Interim Period by the Joint National Transition Team (JNTT) that shall be established as agreed to in the Wealth Sharing Agreement, within the

agreed percentages as in the above paragraph, taking into consideration the actual needs based on the results of Joint Assessment Mission.

8.8. The Fiscal and Financial Allocation and Monitoring Commission (FFAMC), as agreed to in the Wealth Sharing Agreement, shall allocate current transfers to Southern Kordofan/Nuba Mountains, Blue Nile and other war-affected areas and least developed areas according to the following criteria:-

8.8.1. Population;

8.8.2. Minimum expenditure responsibilities;

8.8.3. Human Development Index / Social Indicators (social development factor);

8.8.4. Geographical area (cost disability factor);

8.8.5. Fiscal effort (internal revenue effort); and

8.8.6. The effect of war factor.

8.9. In addition to the budgetary allocations and the two states' share in the NRDF, the President shall allocate an amount of money to each of the two states.

8.10 The Parties agree to appeal to the donor community to provide technical assistance to the FFAMC to develop comprehensive equalization criteria.

8.11. The states shall hold all income and revenue received in audited public accounts and shall comply with the regulations and auditing standards set by the Chamber of the Auditor General, who may audit the state's accounts.

8.12. There shall be no impediment to interstate commerce or the flow of goods and services, capital, or labour to and from the state.

8.13 Any debts/liabilities incurred by any level of government shall be the responsibility of that level of government.

8.14 There shall be a fair and equitable division of government assets. An asset shall in the first instance be allocated to the level of government responsible for the function in respect of which the asset is related (e.g., school buildings to the level of government responsible for education). In the event of a dispute, the Parties agree that such dispute shall be referred to a committee comprising a representative of each of the Parties involved in the dispute and a mutually agreed expert.

8.15 There shall be at the State's level accounting standards, procedures and fiscal accountability institutions operating in accordance with generally accepted accounting standards and procedures to ensure that funds are distributed according to the agreed Government budget and properly expended having regard to value for money.

9. State Land Commission:

9.1. The regulation of the land tenure, usage and exercise of rights in land shall be a concurrent competency exercised by the National and State Governments.

9.2. Rights in land owned by the National Government within the State shall be exercised through the appropriate or designated level of government.

9.3. There shall be established a State Land Commission in the State of Southern Kordofan/Nuba Mountains and Blue Nile, respectively.

9.4. The State Land Commission shall be composed of persons from the State concerned.

9.5. The State Land Commission shall exercise all the powers of the National Land Commission at the State level.

9.6. The State Land Commission shall be competent to review existing land leases and contracts and examine the criteria for the present land allocations and recommend to the State authority the introduction of such necessary changes, including restitution of land rights or compensation.

9.7. The National Land Commission and the State Land Commission shall cooperate and coordinate their activities so as to use their resources efficiently. Without limiting the matters of coordination, the National Land Commission and the State Land Commission may agree as follows:-

9.7.1. To exchange information and decisions of each Commission;

9.7.2. That certain functions of the National Land Commission, including collection of data and research, may be carried out through the State Land Commission; and

9.7.3. On the way in which any conflict between the findings or recommendations of each Commission may be resolved.

9.8. In case of conflict between the findings and recommendations of the National Land Commission and the State Land Commission which cannot be resolved by agreement, the two Commissions shall reconcile their positions. Failure to reconcile, the matter shall be referred to the Constitutional Court for adjudication.

10. Security Arrangements:

10.1 Without prejudice to the Agreement on the Security Arrangements and the right of Sudan Armed Forces (SAF) Command to deploy forces all over North Sudan as it deems fit, SAF troop levels in Southern Kordofan/Nuba Mountains and Blue Nile during the Interim Period shall be determined by the Presidency.

11. Pre-Election Arrangements:

11.1. As part of pre-election arrangements, the Parties agree on the following:-

11.1.1. The Executive and Legislature in the two states shall be allocated as follows:-

- (a) Fifty-five Percent (55%) to the National Congress Party;
- (b) Forty-five Percent (45%) to the SPLM.

11.1.2. There shall be rotational governorship in the two states with each Party holding the Office of Governor for half of the pre-election period in each of the two states.

11.1.3. No one Party is to hold the Governorship in both states at the same time.

11.1.4. The office of Deputy Governor is to be allocated to the Party that is not presently occupying the Office of Governor.

11.1.5. The Parties are to decide upon the signature of the comprehensive Peace Agreement the time and order in which each party assumes the Governorship in each state.

11.2 Pending general elections, and as part of affirmative action, the Parties agree that Southern Kordofan/Nuba Mountains and Blue Nile States shall be adequately represented in National Institutions targeting a percentage not less than the ratio of their population size.

SCHEDULES:

Schedule (A)

The Exclusive Executive and Legislative Competencies of the Two States:-

1. The drafting, adoption and amendment of the Constitution of the state, subject to conformity with the Interim National Constitution;
2. State Police;
3. State Prisons;
4. Local Governments;
5. State information, state publications and state media;
6. Social Welfare, including state pensions;
7. The Civil Service at the state level;
8. The state judiciary and administration of justice at the state level, including maintenance and organization of state courts, subject to national norms and standards of civil and criminal procedure;
9. Cultural matters within the state;
10. Religious matters, subject to the Interim National Constitution;
11. Internal and external borrowing of money on the sole credit of the state within the national macro-economic framework, as set by the Ministry of Finance;
12. The establishment, tenure, appointment, and payment of state civil service officers;
13. The management, lease and utilization of lands belonging to the state;
14. The establishment, maintenance and management of reformatory institutions;
15. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
16. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the state;
17. Local works and undertakings;
18. Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
19. Enforcement of state laws;
20. Statutes enacted under the penal law power, save for the penalization for the breach of National laws relating to the National competencies;
21. The development, conservation and management of state natural resources and state forestry resources;
22. Primary and secondary school and education administration in regard thereto;
23. Laws in relation to agriculture within the state;
24. Airstrips other than international and national airports within civil aviation regulations;
25. Intrastate public transport and roads;
26. Population policy and family planning;

27. Pollution control;
28. State statistics, and state surveys;
29. State referenda, in matters within the state's competencies;
30. State charities and endowment;
31. Town and rural planning;
32. State cultural and heritage sites, state libraries, state museums, and other historical sites;
33. Traditional and customary law;
34. Recreation and sport within the state;
35. Firearms Licenses;
36. State finances;
37. State irrigation and embankments;
38. State budget;
39. State archives, antiquities, and monuments;
40. Direct and indirect taxation within the state in order to raise revenue for the state;
41. State public utilities;
42. Vehicle licensing;
43. Fire fighting and ambulance services;
44. Flag and Emblem; and
45. Community empowerment.

Schedule (B): Concurrent Powers

The National and State Governments shall have concurrent Legislative and Executive competencies on any of the matters listed below:-

1. Economic and social development within the state;
2. Legal and other professions and their associations;
3. Tertiary education, educational policy and scientific research;
4. Health policy;
5. Urban development, planning and housing;
6. Trade, commerce, industry and industrial development;
7. Delivery of public services;
8. Banking and insurance;
9. Bankruptcy and insolvency;
10. Manufacturing licenses;
11. Disaster preparedness, management and relief and epidemics;
12. Traffic regulations;
13. Electricity generation and water and waste management;
14. Broadcasting and telecommunications utilities;
15. Environmental management, conservation and protection;
16. Relief, repatriation, resettlement, rehabilitation and reconstruction;
17. The initiation and negotiation of international and regional agreements on culture, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;
18. Financial and economic policies and planning;
19. Gender policy;
20. Women's empowerment;
21. Animal and livestock control, animal diseases, pastures and veterinary services;
22. Consumer safety and protection;
23. Women welfare and child protection and care;
24. State courts responsible for enforcing or applying national laws; and
25. Rehabilitation and care for disabled war veterans, orphans, widows and their dependants.

Schedule (C): Residual Powers

The residual powers shall be exercised in accordance with its nature and as to whether the power pertains to a national matter, requires a national standard or is a matter that cannot be regulated by a single state, in which case it shall be exercised by the National Government. If the power pertains to a state matter, it shall be exercised by the state.

Schedule (D): State Revenue Sources

The state shall be entitled to raise and collect the taxes and revenues from the sources listed hereunder:-

1. State land and property tax and royalties;
2. Service charges for state services;
3. Licenses;
4. State personal income tax;
5. Tourism levies;
6. Share of natural resource revenues;
7. State Government projects;
8. Stamp duties;
9. State agricultural taxes;
10. Loans and borrowing in accordance with the national macroeconomic policy framework;
11. Excise taxes;
12. Border trade charges or levies in accordance with National legislation;
13. Other state taxes which do not encroach on National taxes; and
14. Grants in Aid and Foreign Aid through the National Government.





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CHRISTI