

**SOUTH SUDAN:  
COMPOUNDING INSTABILITY IN UNITY STATE**

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## **SOUTH SUDAN: COMPOUNDING INSTABILITY IN UNITY STATE**

### **EXECUTIVE SUMMARY**

Unity state confronts a set of challenges unparalleled in South Sudan. Some exemplify concerns that register across the emerging republic; others are unique to the state. Situated abreast multiple frontiers, its political, social, economic and security dilemmas make for a perfect storm. Some have festered for years, while more recent developments – prompted by the partition of the “old” Sudan – have exacerbated instability and intensified resource pressure. Recent rebel militia activity has drawn considerable attention to the state, highlighting internal fractures and latent grievances. But the fault lines in Unity run deeper than the rebellions. A governance crisis – with a national subtext – has polarised state politics and sown seeds of discontent. Territorial disputes, cross-border tensions, economic isolation, development deficits and a still tenuous North-South relationship also fuel instability, each one compounding the next amid a rapidly evolving post-independence environment. Juba, and its international partners, must marshal attention and resources toward the fundamental sources of instability in places like Unity if the emerging Republic is to realise its full potential.

Since 2005, the lion’s share of Juba’s – and international – attention was focused on national issues: implementation of the Comprehensive Peace Agreement (CPA) that ended the civil war, volatile North-South politics, the referendum that brought about Southern independence and negotiations toward a constructive relationship with Khartoum beyond partition. Southerners likewise put the unifying goal of independence ahead of other grievances and aspirations. Now focus is shifting to the latent political, security, social and economic stabilisation agenda at home. Nowhere are the challenges deferred more evident than in Unity state.

Situated along the North-South border and atop much of the South’s known oil deposits, Unity is a strategic territory and a primary source of the country’s economic lifeblood. Its subterranean resources made it a centrepiece in Sudan’s civil war; its people, land, and social fabric were devastated by two decades of conflict that pitted national forces, border-area proxies, Southern rebels and its own ethnic Nuer clans against one another. As both wounds and veiled allegiances remain, the legacies of this era continue to influence the politics, and instability, of the present.

Politics in Unity are deeply polarised, and the reverberations are felt well beyond state boundaries. Citizens in many states harbour grievances about their local governments, but resentment is particularly palpable and widespread in Unity. The dispute at the heart of the state’s body politic is partly linked to broader national politics, the unreconciled legacies of a long and divisive war, and fundamental questions of identity and ethnic competition. As new political realities emerge, it remains to be seen whether the alliances of the recent past will endure. Many have high hopes that independence will pave the way for a new, more democratic and transparent administration in Bentiu (as well as in the national capital, Juba), but those hopes are conditioned on fundamental changes taking place in the state.

A series of armed rebellions emerged in the South in 2010-2011, several in Unity. Though sometimes dismissed as mere armed opportunism, they have together drawn attention to more endemic grievances, some of which are manifest in Bentiu. Divisions over security policy and a flawed counter-insurgency strategy highlighted a familiar dilemma of army integration. An inconsistent response has yielded mixed results, sometimes generating more violence, fueling community grievances, or hampering efforts to bring other rebels back into the fold. Northern support for such groups is highly inflammatory and must cease, but external subversion remains an exacerbating agent as much as a root cause. A demonstrable commitment to reforms in the security sector and rule-of-law institutions, an opening of political space, as well as a more stable North-South relationship will be necessary to discourage future rebellions.

Meanwhile, boundary disputes and cross-border tensions persist. The North-South border is now an international boundary, but it is not yet demarcated and critical sections – including in Unity – remain dangerously militarised. The seasonal migration of nomadic Misseriya cattle-herders to Unity has been interrupted in recent years, generating violence and anxiety along the already tense border. In the absence of negotiated migratory arrangements and implementation of a North-South security pact, there remains considerable uncertainty as to what the coming seasons hold. Likewise, still undefined internal boundaries fuel inter-communal tensions inside Unity state and many others.

A tumultuous end of the CPA era, partition of the country, domestic turmoil in the North, and the absence of arrangements to govern the future relationship between the two Sudans have compounded instability and left questions unanswered. Tens of thousands of Southerners returned from the North to their places of origin, their future uncertain as the state struggles to absorb them. A Khartoum-imposed blockade of North-South transit routes has choked supply chains and caused economic shock in an already isolated state capital. The outbreak of war in neighbouring Southern Kordofan further undermines cross-border movement and trade, protracts North-South tension and has driven refugees into Unity, many of whom need emergency services.

Finally, resources have driven instability and will continue to shape the political, social and economic character of the state in the independence era. Oil has fuelled the national economy and generated state revenue. But Unity constituents remain undecided about its net effect, as tangible development gains are lacking, allegations of oil revenue misuse are widespread, and the social and environmental consequences of extraction persist. The assumption of greater oil sector responsibility will bring changes and an opportunity to revisit contracts and operating standards; it may also prompt new investment. Though production is in decline, industry management and the relationship between state, oil companies and community will be a key determinant of future stability. Large-scale land acquisitions have also generated controversy and drawn attention to inadequate regulation. The potential for new commercial investment will force land policy issues to the fore.

The brutal lessons of oil sector development in Unity illustrate that rigorous regulation and government oversight are necessary to protect the rights and interests of local populations. Meanwhile, violent cattle raiding afflicts many of the state's agro-pastoralists, often stoking disputes with ethnic Dinka communities in neighbouring Warrap and Lakes States.

Now that independence has been achieved, the challenges and grievances deferred will increasingly surface in what is already a fragile environment. Many aspire to use the 9th of July – independence day – to make a break with the troubles, injustices, and divides of the past. But untangling Unity's web of intersecting challenges will prove no easy task.

**Juba/Nairobi/Brussels, 17 October 2011**

## SOUTH SUDAN: COMPOUNDING INSTABILITY IN UNITY STATE

### I. INTRODUCTION

Given its history, resources, ethno-political significance and location – at once both strategic and isolated – Unity state is today a territory of unique importance and complexity. Instability must be considered in light of the complicated history of this frontline state within the “old” Sudan, the strategic interests of national powers, and the complex web of relationships and shifting alliances among the state’s political and military actors. A new chapter is now being written, as the post-independence transition period has already prompted changes and will continue to influence the character and stability of the state. This background report analyses the series of inter-related pressures and the underlying governance crisis that together threaten continued destabilisation in Unity. It addresses concerns exclusive to the state, as well as those that exemplify challenges endemic to the emerging Republic.

### II. STATE ORIGINS AND CHARACTERISTICS

Unity state lies in the north-central part of South Sudan, and at approximately 36,000 sq km, is roughly the size of the Netherlands. It borders Southern Kordofan and Abyei to the north, as well as Warrap, Lakes, Upper Nile and Jonglei states to the south. Its northern border accounts for some 270km of the boundary separating Sudan and South Sudan, a line first established under British rule but which remains to be demarcated today.<sup>1</sup>

The White Nile River marks much of the state’s eastern border, while the Bahr al Ghazal (Nam)<sup>2</sup> runs west to east before joining the White Nile. The Bahr al Arab and a series of other rivers and Nile tributaries also traverse the state, together generating significant seasonal flooding. Many of the state’s agro-pastoralists move with the seasons, as the expansion and contraction of these waterways during the July-September rainy season alters the landscape and makes for considerable areas of swampy terrain. The state’s northern grassland and waterways also draw Baggara Arab cattle herders from Southern Kordofan during the dry season.

Unity is a predominantly Nuer homeland. Its northernmost counties are also home to sections of the Dinka tribe, though they number far fewer than the Nuer.<sup>3</sup> Historically,

<sup>1</sup> For more on the contested border, see Crisis Group Africa Briefing N°75, *Sudan: Defining the North-South Border*, 2 September 2010. Additional reporting on South Sudan includes: Crisis Group Africa Reports N°172, *Politics and Transition in the New South Sudan*, 4 April 2011; N°159, *Sudan: Regional Perspectives on the Prospect of Southern Independence*, 6 May 2010; and N°154, *Jonglei’s Tribal Conflicts: Countering Insecurity in South Sudan*, 23 December 2009. The concerns of Misseriya communities are also addressed in: Crisis Group Africa Report N°145, *Sudan’s Southern Kordofan Problem: The Next Darfur?*, 21 October 2008.

<sup>2</sup> “Bahr al Ghazal” is the Arabic name for the river; it is known by the Nuer as the “Nam”.

<sup>3</sup> The 2008 Population and Housing Census cites the total population as approximately 585,000. “5th Sudan Population and Housing Census-2008: Priority Results”, Population Census Council, 26 April 2009. Given dubious statistics recorded in the North, lack of confidence in the accuracy of figures in the South

Misseriya nomads also use parts of the territory to graze large herds of cattle, though traditional migration practices were complicated during the war and have been in a tense hiatus for several seasons.<sup>4</sup> Nine counties comprise Unity, each occupied by a dominant ethnic sub-group.

*Unity state counties and their predominant ethnic sub-group*

<b>Mayom</b>	Bul Nuer
<b>Rubkhona</b>	Leek Nuer
<b>Abiemnom</b>	Ruweng Dinka
<b>Pariang</b>	Ruweng Dinka <sup>5</sup>
<b>Guit</b>	Jikany Nuer
<b>Koch</b>	Jagei Nuer
<b>Mayendit</b>	Haak Nuer
<b>Leer</b>	Dok Nuer
<b>Panyijar</b>	Nuong Nuer

Like much of the South, the territory formerly known as Western Upper Nile (now Unity state) saw little development under Sudanese rule. Its people were economically and politically marginalised by successive central governments in Khartoum. Oil was discovered in the late 1970s in the Muglad Basin, near the district's administrative centre in Bentiu. This discovery quickly altered attitudes about the territory, thrust it to the centre of Khartoum's strategic agenda and ultimately contributed to the onset of Sudan's 1983-2005 civil war.

In the early 1980s, the then president, Jafaar Nimeri, attempted to redraw Western Upper Nile, the Abyei area, and portions of Southern Kordofan into a new "Unity" province – an area that would straddle the North-South border. The rationale was ostensibly to promote the ideals of North-South unity and ease competition over oil proceeds. The real motivation, however, was to keep the newly discovered Bentiu area oilfields away from any Southern regional government and firmly under Khartoum's control.<sup>6</sup> But the proposal was rebuffed by Southern protest, and the change was never realised.

and the North-South power politics that surrounded the exercise, the 2008 census was rejected by the GoSS as well as Sudan's other peripheries. Crisis Group interviews, census officials, Juba, February 2011.

<sup>4</sup> The Misseriya are Baggara Arab nomads who occupy portions of Southern Kordofan state for part of the year and (normally) migrate southward with their cattle during the dry season. See Section VII below for a review of Misseriya migration into Unity state.

<sup>5</sup> The Ruweng Dinka of Pariang and Abiemnom counties are sub-divided into the Alor, Awet, and Kuil.

<sup>6</sup> Crisis Group email correspondence, historian Douglas Johnson, August 2011. This was not the first attempt to seize administrative control. In 1980, National Islamic Front leader Hassan al-Turabi devised a plan to re-draw Northern territories as part of the proposed People's Regional Government Act, thereby

In 1983, Khartoum reconstituted the Southern Region (South Sudan) into three smaller "regions": Bahr al Ghazal, Upper Nile, and Equatoria. Upper Nile was later carved into thirds, at which time the territory known as Western Upper Nile became Unity, with its capital in Bentiu, though it remained known (particularly in the South) as Western Upper Nile.<sup>7</sup> The name "Unity" state was again formalised upon the introduction of Sudan's federal system in 1994, with the borders those that remain today in the new Republic of South Sudan.

Unity state operates within South Sudan's federal system; the structures that existed during the period of Southern regional government have largely been reaffirmed by the transitional constitution of the Republic of South Sudan.<sup>8</sup> The state executive is headed by an elected governor, who is empowered to appoint a deputy governor, state advisers and a cabinet of ministers. An elected state legislative assembly is responsible for law-making. Both the executive and legislative terms are to be five years, though the officials who won seats in the elections preceding independence will serve a four-year term per the agreed transition period. A permanent national constitution – and supporting state constitutions – are to be developed during the transition.<sup>9</sup>

The state is mandated to establish local government structures – in accordance with national criteria and standards – at the county, payam and boma level.<sup>10</sup> Despite adoption of the Local Government Act in 2009, local structures are not well established in Unity or elsewhere in South Sudan, and widespread commitment to decentrali-

attempting to annex valuable portions of several Southern states to increase control of oil and prime agricultural land. David H. Shinn, "Addis Ababa Agreement: Was it Destined to Fail and are there Lessons for the Current Sudan Peace Process?", *Annales d'Ethiopie*, vol. 20, no. 20 (2005), p. 252.

<sup>7</sup> Unity state was alternatively known by then rebel commander Riek Machar's Nuer-dominated rebel factions and their constituencies as Liech state, a reference to Koat-Liech, the site (in present day Koch County) of the tamarind tree from which all Nuer peoples (and all humankind) are believed to have descended, according to Nuer mythology. Douglas Johnson, *Nuer Prophets: A History of Prophecy from the Upper Nile in the Nineteenth and Twentieth Centuries* (Oxford, 1994), pp. 45, 312. Liech remains an important and spiritual place for many Nuer, often visited for ceremonies and other meaningful events. Crisis Group interviews, Nuer leaders, Bentiu, Juba, 2011. Jonglei and Upper Nile were the two other states that then comprised the greater Upper Nile Region.

<sup>8</sup> The transitional constitution was adopted by the South Sudan Legislative Assembly on 7 July, and endorsed by the president during independence day ceremonies on 9 July 2011.

<sup>9</sup> Unity state is to be represented at the national level in both houses of the new legislature, the Assembly and the Council of States.

<sup>10</sup> States are divided into counties, which in turn are subdivided into payams, which may include numerous bomas (villages).

sation remains elusive. Local elections have not yet been held, though the transitional constitution reaffirms intention to organise them. At present, state governors appoint county commissioners to exercise local executive functions, and these figures often operate with little accountability. Traditional authorities and customary law courts have also been sanctioned by the state, though their roles and relationships to other state institutions are not sufficiently defined.

### III. LEGACY OF WAR

The legacy of war still shapes political realities in Unity. The forcible displacement campaigns initiated by the central government in Khartoum, the role of oil development (including oil company complicity) as a driver of conflict, and the devastating intra-Nuer conflicts that unfolded during the war have been extensively documented and are not dealt with in detail in this report.<sup>11</sup> This section instead highlights the principal dynamics that continue to contribute to instability in Unity today.

Present-day Unity state was among the areas that suffered the worst of the 22-year conflict, not least due to the strategic value of its oil fields.<sup>12</sup> During the latter stages of President Nimeiri's rule (1969-1985), Khartoum began arming proxies with the aim of pushing the border further south. Militias and irregular security forces, especially those recruited among nomadic Baggara tribes in northern border states, were the central instrument of this policy. Brutal raids displaced Dinka and Nuer communities southward, thereby asserting government control over coveted territory and resources and securing a wider buffer zone.<sup>13</sup>

The policy was sustained during the Sadiq al-Mahdi (1986-1989) and Omar al-Bashir (1989- ) administrations and expanded to employ pro-government Nuer militias as part of a divide-and-rule strategy intended to allow Khartoum to extend and accelerate oil development.<sup>14</sup> A dizzying period of violent conflict, evolving alliances, and power plays within and among Southern forces and communities (frequently nurtured by divisive government tactics) en-

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<sup>11</sup> For detailed accounts, see Georgette Gagnon, John Ryle, "Report of an Investigation into Oil Development, Conflict and Displacement in Western Upper Nile, Sudan", [www.sudanarchive.net](http://www.sudanarchive.net), October 2001; Crisis Group Africa Report N°39, *God, Oil, and County: Changing the Logic of War*, 28 January 2002; and "Sudan, Oil, and Human Rights", Human Rights Watch, 2003. For an assessment of the impact of militia-led campaigns in Western Upper Nile on the CPA negotiations, see: Crisis Group Africa Briefing N°13, *Sudan's Oilfields Burn Again: Brinkmanship Endangers the Peace Process*, 10 February 2003.

<sup>12</sup> Unity state's producing fields include concessions in blocks 1, 2 and 4 and in 5A. Though earlier figures are not well documented, blocks 1, 2 and 4 were both the highest producing and most lucrative during the CPA period. However, production declined steadily over that timeframe. For more detail, see Section X and Appendix C below.

<sup>13</sup> Crisis Group Briefing, *Sudan: Defining the North-South Border*, op. cit.

<sup>14</sup> The use of militias in this strategy provided Khartoum a degree of plausible deniability, which, as CPA negotiations continued, allowed it to frame the fighting as inter-ethnic conflict. The strategy also undermined Southern reconciliation and aimed to manipulate the ongoing peace negotiations with the SPLA. Crisis Group Briefing, *Sudan's Oilfields Burn Again*, op. cit.



sued, at the centre of which was what some have called the “Nuer civil war”.<sup>15</sup> Divisions formed along ethnic or sub-regional lines, but almost as often around prominent personalities, personal interests and short-term tactical objectives.

The series of groups jockeying for control included: official government forces; government-backed Misseriya militias; the Sudan People’s Liberation Army (SPLA); Nuer-dominated breakaway factions led by Riek Machar (initially SPLA-Nasir, then South Sudan Independence Movement and later the South Sudan Defence Forces);<sup>16</sup> and a formidable constellation of government-backed Nuer armed groups led by Paulino Matiep (as well as the prominent commander Peter Gadet).<sup>17</sup> Matiep – a Bul Nuer militia leader and commander of the Anyanya II movement – was then no friend of SPLA leader John Garang; in addition to acting as a government proxy in the oil fields, he eventually became “a potent symbol for disaffected Nuer and other southerners who had rejected” the SPLA and its leadership.<sup>18</sup>

The particularly difficult episodes, the complex web of personal rivalries and tactical objectives that underpinned them and the divisions they sowed (often deliberately) are not forgotten by the civilian population of Unity state, many of whom were mobilised by one side or another. As both wounds and veiled allegiances remain, these legacies are evident in the local politics, and instability, of the present.

#### IV. POLITICAL POLARISATION AND A CRISIS OF GOVERNANCE

Politics in Unity are deeply polarised. Citizens in many states harbour grievances about their local governments, but resentment is particularly palpable and widespread among the constituents of Unity, who feel Bentiu is suffering a “crisis of politics”.<sup>19</sup> At the centre of a divisive political storm is Governor Taban Deng Gai,<sup>20</sup> whose leadership and legitimacy are both regularly questioned and a source of considerable controversy. Opponents blame Juba for imposing him, arguing “he is not the governor of the people; he is the governor of [President] Kiir”.<sup>21</sup> Actors from a wide range of constituencies worry the current arrangement is not sustainable, and the potential fallout from continuing polarisation and instability stretches well beyond state lines.

Bad governance is the most often cited explanation for the troubled state of affairs.<sup>22</sup> Complaints about state administration emerged as early as 2005, just months after Taban was appointed governor.<sup>23</sup> Frustration steadily mounted as grievances went unaddressed, alternative voices were silenced, and power increasingly appeared to centralise around the state executive. A sense of injustice is pervasive, particularly with regard to the rule-of-law (and a hegemonic use of security forces), the perceived misuse of state petroleum revenues and a conspicuous lack of development.

The most frequently asked question among state constituents is: “where is the 2 per cent?” The CPA mandated that each producing state be allocated 2 per cent of revenues

<sup>15</sup> Douglas Johnson, *The Root Causes of Sudan’s Civil Wars*, (Bloomington, 2003), pp. 111-126.

<sup>16</sup> Machar split from the mainstream SPLA in 1991 and forged a tactical alliance with Khartoum in the mid-1990s, before returning with his forces to the SPLA in 2002. Many within the “mainstream” SPLM/A have never forgiven those who “split”.

<sup>17</sup> Gadet fought on both sides of this conflict. See Section VI for more on Gadet, his background and his recent rebellion.

<sup>18</sup> John Young, “Emerging North-South Tensions and Prospects for a Return to War”, *Small Arms Survey*, July 2007, p. 17. Matiep’s militia forces – which were armed and backed by Khartoum – joined with Riek Machar in 1991 and were merged into the South Sudan Defence Forces (SSDF) in 1997; Matiep was formally integrated into the SAF as a major-general in 1998 and also became SSDF Chief of Staff in 2002. The division between the SPLA and SSDF militias widened at the latter’s exclusion from the peace process which yielded the CPA. Matiep joined the SPLA in 2006 as deputy commander in chief, an indication of his influence and that of his forces. However, integration of his and other rebel forces into the SPLA remains incomplete and thus a source of resentment for former SSDF and SPLA members alike. Despite Matiep’s ostensible position as number two in the army, he was largely marginalised, exercised little operational control and was rarely consulted in decision-making processes.

<sup>19</sup> Crisis Group interview, Bul Nuer man, August 2011.

<sup>20</sup> Taban is a Jikany Nuer from Guit County, Unity State. He defected from the SPLM/A to join Riek Machar’s breakaway forces in 1991 and subsequently aligned with the government via the Khartoum Peace Agreement in 1997; he then served as the Khartoum-recognised governor of Unity state from 1997 to 2000. Tensions emerged with Paulino Matiep during that time-frame, and he soon departed for Khartoum. There, he served as state minister for transport, before joining another Machar faction, and then finally rejoined the SPLM in 2001 ahead of Machar. He was by then among those urging Machar to return to the SPLM.

<sup>21</sup> Crisis Group interview, Unity state community leader, Juba, July 2011. A 2008 public rally featuring President Kiir in Bentiu is often referenced, in which the president’s appearance was disrupted by chants of “Take Taban”.

<sup>22</sup> Crisis Group interviews, Juba, Bentiu, March-August 2011.

<sup>23</sup> Opposition parties accused the governor of violating the CPA protocol that mandated 20 per cent of government posts be allocated to other political parties. CPA, Chapter II, Power Sharing Protocol, Section 4.5.

derived from oil produced in that state.<sup>24</sup> This allocation should theoretically make Unity more financially capable than other states, but the lack of tangible development gains has generated widespread resentment. Most surmise the money has instead made its way into the pockets of a band of corrupt elite, in both Bentiu and Juba. The fact that current and former finance officials and senior State Assembly figures report that “even we don’t know what has been coming”, and cannot account for expenditure beyond vague generalities, illustrates the depth of the problem.<sup>25</sup> An individual central to state finances during the CPA period reports figures of transfers received that are wildly incongruous with both the share due and the reported transfers, casting a further shadow over management of revenues.<sup>26</sup>

Senior state officials blame Khartoum, arguing the National Congress Party (NCP) has regularly withheld transfers owed to the state. This is true to a certain extent, particularly at the national level, as transfers were delayed, operations made deliberately opaque, and exchange rates manipulated to serve Khartoum’s interest. But it alone does not explain the disparity at the national level or in Bentiu, and many find this excuse all too convenient. The actual monetary value of the 2 per cent also appears to be sometimes overestimated by the general populace (and some members of the international community), but neither does this provide a full explanation. Misperceptions could be rectified by greater transparency, including the regular publication of transfers received and more accessible government expenditure reporting, but state officials have pursued no such initiatives. As such, plausible allegations of corruption persist.

Opponents assert the governor’s position is maintained not by popular legitimacy, but through coercion, control of state assets and institutions, and a system of patronage that provides government jobs and authority in return for superficial loyalty and votes.<sup>27</sup> But popular dissent is sup-

pressed by a fear of consequences: physical, political or otherwise. Many argue this dynamic not only infects average citizens but also prevents the civil service, the state cabinet and the legislative assembly from exercising proper checks and balances on power. Individuals familiar with meetings of the state council of ministers reported that decisions are routinely taken by a committee of one.<sup>28</sup> Others argue the state assembly is merely a rubber stamp for the executive (a complaint not specific to Unity).

As a fledgling democracy emerges in the new republic, a lack of capacity is a reality in many state institutions and assemblies. But that alone does not justify the fact that policy development and legislation is driven almost exclusively from the executive, or that a senior assembly official should explain his institution’s primary function as “receiving” bills that originate in the executive and signing them into law.<sup>29</sup>

Some contend the governor is more pro-active than counterparts in other states and sense a genuine thrust to build a well-functioning state polity, but simultaneously complain that an overly centralised and authoritarian approach to governance undermines that very objective and stirs discontent.<sup>30</sup> The state government’s backers dismiss the apparent dissatisfaction as exaggerated and the complaints as normal opposition politics of agitation. They contend critics are not representative of grassroots opinion and are instead motivated only by a thirst for power and the trappings of government.<sup>31</sup>

## A. COMPLAINTS LODGED

Calculating that no progress could be made at the state level, disenfranchised opponents, including state and national government officials, have made numerous appeals directly to Juba. Several of them characterise the deep divisions and widespread discontent in Unity:

- August 2007: Nine of Unity state’s thirteen appointed South Sudan Legislative Assembly members signed and delivered an appeal to President Kiir.<sup>32</sup> It cited the state’s administrative shortcomings in the areas of security, service provision, and infrastructure and economic development; targeted the governor in particu-

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<sup>24</sup> CPA, Chapter III, Wealth Sharing Protocol, Section 5.5. For more on the 2 per cent allocation and management of state oil revenues, see Section X.B below.

<sup>25</sup> Crisis Group interviews, Bentiu, March, August 2011.

<sup>26</sup> Crisis Group interview, Bentiu, August 2011. These inconsistencies hint at mismanagement along the revenue chain, either at the national or state level, or both.

<sup>27</sup> County Commissioners occupy positions of considerable power in today’s South Sudan, and because they are still appointed rather than elected, accountability often lies not with their constituency but with the governor who appointed them. Many of Unity state’s communities have complained that their appointed administrator was neither a capable candidate nor selected with their interests in mind, and was in fact chosen precisely because he was unlikely to challenge the authorities in Bentiu. This includes at least two of the commissioners cur-

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rently occupying seats. Crisis Group interviews, Bentiu, August 2011.

<sup>28</sup> Crisis Group interviews, Bentiu, August 2011.

<sup>29</sup> Crisis Group interview, Bentiu, August 2011.

<sup>30</sup> Crisis Group interviews, Bentiu, August 2011.

<sup>31</sup> Supporters prefer instead to cite state improvements of roads, infrastructure and security. Crisis Group interviews, government officials, Bentiu, August 2011.

<sup>32</sup> “Report and Recommendations on Situations of Affairs in Unity State”, document obtained by Crisis Group.

lar; and alleged widespread maladministration, corruption and nepotism, most notably with regard to alleged misuse of the 2 per cent oil revenue allocation. The concerned representatives called for both an official investigation and the dismissal of the governor.

In response, the Government of South Sudan (GoSS) assembled an investigation team to “assess ... the validity of [the] concerns and allegations”. In February 2008, that team issued findings that stood in stark contrast to the charges.<sup>33</sup> The summary of interviews with state officials was unwavering in its support for the governor and the operations of the state government.<sup>34</sup> It indicated that the governor had challenged or rejected nearly every allegation, dismissing the appeal as nothing more than an attempt to gain power, and asserting – somewhat outlandishly – that those involved were working only to advance the agenda of the National Congress Party (NCP) in Khartoum.

The committee dismissed most of the complaints on the grounds of insufficient evidence and reduced the governance complaints to political polarisation in the state. It framed the dispute as a struggle between two equal camps: those with the governor and those opposed. It even went so far as to posit that the allegations were “probably fabricated to justify this political struggle”.<sup>35</sup> The conclusions exonerated the governor and the state government of all allegations, labelling them “unfounded, baseless, and politically motivated”.<sup>36</sup> Interested South Sudanese, journalists and international observers questioned whether the composition of the committee made an impartial investigation impossible,<sup>37</sup> and deemed the exercise and its findings a “complete whitewash”.<sup>38</sup>

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<sup>33</sup> The committee report cites 21 interviews conducted, including with the complainants, the governor, two state assembly members, five state ministry officials, three county commissioners, one chief and one other relevant party. “Report of the Ministerial Investigation Committee Regarding Allegations Against The Governor Of Unity State”, 4 February 2008, obtained by Crisis Group.

<sup>34</sup> The report also listed accomplishments and/or progress reports on construction of roads, schools, health facilities and government buildings, and advances in water and power supply, and finally an explanation – though without itemised accounting – of the use of the 2 per cent oil revenues. *Ibid.*

<sup>35</sup> An allegedly forged second petition was also investigated that served to undermine the credibility of some individuals who were campaigning for the governor’s removal.

<sup>36</sup> “Report of the Ministerial Investigation Committee”, *op. cit.*

<sup>37</sup> The committee members were Michael Makwei, then legal affairs and constitutional development minister (SPLM); John Luk, then energy and mining minister (SPLM); and Festo Kumba, then animal resources and fisheries minister (SPLM); Martinson Matthew Otuomoi served as secretary.

<sup>38</sup> Crisis Group interviews, Unity state political actors, international official, Juba, June 2011.

- October 2009: Following a dangerous confrontation between state SPLA forces and the personal guard of now SPLA Deputy Commander-in-Chief Paulino Matiep early in the month, the “Unity State Community in Juba” issued a new appeal to the president alleging failings of the governor, lack of legitimacy among the state electorate and corresponding political, social and economic deterioration in the state. It charged that the governor remained in his position by securing the support not of state constituents but of an “influential strata of Southern Sudan leadership”.<sup>39</sup>

The presidential affairs ministry responded on behalf of Kiir with a message that argued the appeal was signed by only one side of the dispute, and the source of conflict in Unity state was a thirst for power and material interests.<sup>40</sup> It did, however, pledge the issues would be taken up by the political bureau of the ruling Sudan People’s Liberation Movement (SPLM). Those supportive of the complaints found the response disingenuous and are unaware of any subsequent review or action by the bureau.

- July 2011: As soon as independence was achieved, political jockeying began for positions in the first government of the new Republic of South Sudan. A group of state officials and intellectuals again lobbied the president in July and August to make a change in Bentiu. They called attention to years of widely-held complaints about the “imposed reign” of the governor, cited new security risks and asserted that the realisation of independence meant it was now finally time for change. They hoped that, despite the governor’s April 2010 election mandate, Kiir might move him into the federal government, appoint an interim candidate and thus set the stage for fresh elections.<sup>41</sup> Despite some speculation that Taban and potentially other sitting governors might be re-assigned to federal ministries or other national posts, none were moved when the new government was announced on 26 August.

## B. PARTY POLITICS: A HOUSE DIVIDED

As the SPLM remains the dominant political entity in Unity, state party structures have reflected the polarisation in Bentiu. A clear signal of popular sentiment was delivered in April 2008, when delegates to the SPLM state party congress (drawn from payam, county and state lev-

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<sup>39</sup> Copy of appeal addressed to President Kiir, dated 24 October 2009, obtained by Crisis Group.

<sup>40</sup> Letter from Dr Luka Biang Deng, then presidential affairs minister, addressed to Benjamin Mijak Dau, member of South Sudan Legislative Assembly, December 2009; obtained by Crisis Group.

<sup>41</sup> Crisis Group interviews, Juba, Bentiu, August 2011.

el) elected Joseph Monyuiel Wejang as their chairman and a supporting secretariat.<sup>42</sup> Because governors held party chairmanships in every other state in South Sudan, the vote was a clear rebuke of Taban. The governor in effect rejected the outcome, and the seeds of party division were sown. Parallel party structures emerged, signalling a de facto split, and the two sides began working at cross purposes. Meanwhile, because Wejang is perceived to have ties to Vice President Machar, the state party election drew attention from further afield.<sup>43</sup>

Soon after, Wejang was appointed health minister in Juba. He retained his state party chairmanship, though day-to-day functions fell to his deputy in Bentiu. The deputy was later offered a position in the state government, ostensibly moving him into Taban's camp, and Wejang sought to replace him. The deputy and the governor's supporters then convened a (partial) meeting of state party leaders in the absence of the chair, and under the guise of the State Liberation Council,<sup>44</sup> affirmed the deputy's position and reconstituted the secretariat. The SPLM office was subsequently taken over in the presence of security forces and the sitting secretary arrested after he refused to vacate. President Kiir reportedly had to intervene to secure his release.<sup>45</sup> The national secretariat intervened, but attempts to reconcile the factions failed.

The rift came into even sharper focus in advance of the 2010 national elections, as the candidate selection process, including the gubernatorial nomination, commenced. In December, an extraordinary meeting of the state liberation council – opened by Vice President Machar – was convened and a statement subsequently issued to the press

that announced Wejang as the party's nominee.<sup>46</sup> But days later, another statement was issued rejecting the nomination and criticising the process as invalid. Some petitioned Juba, complaining Machar had strong-armed the process.<sup>47</sup> The conspicuous division, as well as attempts by both sides to manipulate circumstances in their favour, meant that the structures necessary to vet and choose a nominee could not be formed. The national secretariat again intervened and ultimately recommended that all nominee applications be taken to Juba, where an independent nomination body and the political bureau would together recommend a gubernatorial candidate.

This did not satisfy everyone. Some state party officials and members complained that national secretariat and political bureau members, cognisant that the tides of popular opinion were against Taban, came to Bentiu to usurp control of the process and endorse the bureau's preferred candidates.<sup>48</sup> The party scoring system was employed in vetting the candidates, which includes criteria such as military experience, education and party history. In the end, the bureau named Taban the official SPLM nominee. It also recommended, in what appeared an attempt to ease internal tensions, that the two factions divide the nominations for state legislative posts between their respective camps.

In assessing the decision, a state official close to the process asserted that some SPLM elites were concerned that Wejang was a relatively recent cross-over from the NCP, and that many political bureau members instead preferred "SPLM die-hards" to occupy such critical posts.<sup>49</sup> This sentiment squares with attempts by Wejang's political opponents in Bentiu to paint him as ideologically aligned with the NCP, as well as broader national political motives.<sup>50</sup> In any case, the turbulent process clearly demonstrated the deep divisions in Bentiu, but also underscored the extent to which the state's body politic is deeply intertwined with broader national politics and personalities.

### C. TENSE GUBERNATORIAL ELECTION

Wejang stepped aside, and the state minister for energy and mining in the Government of National Unity in Khartoum, Angelina Teny (the wife of Vice President Machar), left the SPLM to stand as an independent candidate. Teny was one of eight independents who contested gubernatorial races despite objections from the SPLM, an indication of

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<sup>42</sup> Wejang is a Bul Nuer from Mayom County and served as the NCP-appointed governor of Unity state in 2003-2004. The SPLM employed alternative governance mechanisms during the war, and did not recognise Khartoum's appointed administrators. State party officials report that most delegates to the state party congress supported Wejang, and believed, because of confusion over the SPLM constitution, that their vote was in effect for Wejang to become governor. Crisis Group interview, Bentiu, August 2011.

<sup>43</sup> Machar recommended Wejang for health minister in 2008 and again pushed for him to be appointed to a ministerial post following the 2010 elections. Crisis Group interviews, SPLM party members and Unity state official, Juba, July 2011.

<sup>44</sup> State Liberation Councils are SPLM party structures, each a subset of the National Liberation Council – an elected, though largely inactive, quasi-parliamentary party structure of 270 members. The national body has not met since the party convention in 2008, and its role and composition may change as the party undertakes internal reforms. Crisis Group Report, *Politics and Transition in the New South Sudan*, op. cit.

<sup>45</sup> Crisis Group interview, Unity state party official, Juba, July 2011.

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<sup>46</sup> "Unity State nominates its governorship candidate for 2010 elections", *Sudan Tribune*, 4 December 2009.

<sup>47</sup> "Unity state governorship candidate rejected", *Gurtong*, 10 December 2009.

<sup>48</sup> Crisis Group interviews, Juba, Bentiu, July, August, 2011.

<sup>49</sup> Crisis Group interview, Bentiu, August 2011.

<sup>50</sup> Crisis Group interviews, Bentiu, August 2011.

the desire for greater political space in South Sudan, not only between parties but within its dominant party. Teny inherited many of Wejang's supporters and enjoyed the backing of the vice president, despite the fact that his party had officially endorsed Taban. She competed in what was one of the most hotly contested – and controversial – races in South Sudan. Independent observers noted extensive and unlawful interference in her campaign and the operations of the National Elections Commission, including through the use of state assets and the SPLA.<sup>51</sup>

Teny's supporters erupted in protest after results in favour of Taban were announced prematurely over the local radio station, absent endorsement of the National Elections Commission and amid investigation into allegations of rigging. Three protestors were killed by state security forces.<sup>52</sup> Despite the ensuing standoff, Taban was declared the winner. Charges of rigging did not subside however and continue to this day. Additional complaints were also registered about manipulation of the SPLM party list for state assembly. The ensuing animosity extended beyond the state leadership, causing significant sections of the state political class to lose confidence in the GoSS and national SPLM leadership.

#### D. THE DIVIDE REMAINS

The heated election period brought considerable attention not only to divisive party politics in the state, but more specifically to ongoing competition between the governor (and his backers) and those of Vice President Machar.<sup>53</sup> The political clash was an open secret in recent years; Taban told the media in 2008 that "Riek Machar is the source of my problems", arguing the vice president was disloyal to the party, and claiming his objectives included

undermining the authority of the governor and sowing disunity in Unity state and more broadly across the South.<sup>54</sup> The tension was similarly evident at the SPLM's 2008 national convention, during which a plan was hatched to remove Machar from the party's number two position as well as Pagan Amum from the post of secretary general. Taban was to assume the latter position, thus maintaining a Nuer presence in the upper echelon of the party. Jockeying ensued among party elite and in the end, the reshuffle was deemed too disruptive and thus scrapped.

The antagonism of the April 2010 election waned somewhat as result of a very public "reconciliation" between Taban, Teny and Machar. The three came together and campaigned to put the vote for self-determination ahead of state and national divisions, not least because some state communities – having recently lost confidence in elections – indicated a disinclination to register or vote in the referendum. The trio was successful in prompting a high referendum turnout, but many believe the reconciliation served only that specific purpose and was superficial at best.

Meanwhile, Chairman Wejang and state secretariat officials met with President Kiir in February 2011, spelled out their grievances and aimed to chart a way forward. Taban subsequently came to Juba, and the two negotiated a settlement that traded state executive and state party positions.<sup>55</sup> This initiative failed to bridge the divide, and soon thereafter, preparations for independence, and later the formation of the Republic's first government, occupied the attention of the national leadership. The row remains unresolved.

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<sup>51</sup> Crisis Group email correspondence, April 2010, August 2011. Reported interference also included harassment of national and international observers by the SPLM and government officials. Preliminary statement, The Carter Center, Election Observation Mission, 17 April 2010. European Union observers noted SPLA intervention in vote aggregation in Unity and reported that "inappropriate pressure is being applied to election officials . . . to alter results to favour incumbent SPLM candidates" in several states, including Unity. It also reported that Angelina Teny's campaign manager was "arrested and beaten up by security forces". "Final Report on the Executive and Legislative Elections", European Union Election Observation Mission, 11-15 April 2010.

<sup>52</sup> Crisis Group interviews, Bentiu, August 2011. "Three people killed following Taban Deng declared win in Unity state", *Sudan Tribune*, 23 April 2010. At least one journalist who witnessed the event was detained by security forces for more than a week.

<sup>53</sup> Taban joined Riek Machar's breakaway rebel faction, serving for years as his first lieutenant. The two were political and military allies, but relations soured, notably following Taban's return to the SPLA, as interests and alliances shifted. Crisis Group interview, email correspondence, Sudan experts, September 2011.

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<sup>54</sup> The allegations also implied that Machar was working in collusion with the NCP. Editor-in-Chief Nhial Bol's interview with Governor Taban Deng Gai, *The Citizen* (Sudan), 23 January 2008. Similar statements were levelled by the governor in his interview with the ministerial committee tasked to investigate his administration. "Report of the Ministerial Investigation Committee", op. cit.

<sup>55</sup> Wejang gave the governor the deputy chairmanship and appointments for the assistant secretary of information post and the chairmanship of one of the four committees (parliamentary) of the SPLM State Liberation Council. In return, the governor offered two executive adviser positions and one state minister post. Crisis Group interviews, senior state party officials, Juba, July 2011; Bentiu, August 2011.

## V. NATIONAL POLITICS AT PLAY

Given Unity's significant Nuer population, the powerful individuals that hail from it, the lucrative oil interests and its strategic location on the North-South border, national level politics often overlaid local dynamics in Bentiu during the CPA period. But now that Southern independence has been realised, the national political landscape is changing. It remains to be seen whether alliances that served political, security and personal objectives in recent years will persist, or if they have exhausted their shelf life, as new political realities emerge.

Between 2005 and the 2010 elections, most state governors in South Sudan were changed, some twice. Taban was one of two exceptions.<sup>56</sup> Many subscribe to a belief that he was appointed and has subsequently been kept in place by way of a power alliance with a group of senior government and military officials in Juba. An aggrieved resident remarked, "the problem of Unity has been created ... in Juba".<sup>57</sup>

The purported rationale for such an arrangement is as follows: first, Taban's occupation of the governor's seat in Bentiu would serve as a check on the influence of both Vice President Machar and, to a lesser extent, General Paulino Matiep, two prominent Nuer for whom trust remains thin among many in the mainstream SPLM and even thinner among many Dinka communities.<sup>58</sup> Machar enjoys broad appeal in Unity state, and many of the governor's (and the president's) opponents are Machar supporters. The aforementioned divisions at the state level are in many ways a manifestation of broader national politics. Opponents hope that keeping the state out of the hands of Machar supporters might ultimately limit his clout at the national level, as many believe he retains presidential ambitions. The rift thus also serves the interests of those who prefer to keep the Nuer community divided.

Secondly, Juba had an interest in keeping Taban in power to ensure a strong and loyal commander if and when the security situation deteriorated with the North. (The governor has and promotes a reputation of being tough on security. His authority extends beyond the civilian sphere, as he is close to the 4th Division commander in Bentiu and thus enjoys oversight of the SPLA there.) A number of the state's prominent Nuer commanders, most notably Matiep and Peter Gadet, forged tactical alliances with Khartoum during the war. Despite their subsequent integration, that history continues to complicate relationships inside government and army alike, as multiple chains of command remain, even if dormant. Justified or not, some fear remained that if the shaky CPA peace collapsed, Khartoum might actively destabilise the border and/or oil producing areas and attempt to re-ignite old, or develop new, alliances.<sup>59</sup> Later, given the emerging war in Southern Kordofan in 2011 and uncertainty as to its consequences, some believed the security calculation again worked in Taban's favour – and some Nuban fighters have voiced strong support.<sup>60</sup>

Thirdly, many believe, though lack hard evidence, that the quid pro quo was further solidified by corrupt exploitation of the state's oil revenues, in which petrodollars made their way into the pockets of a clique of influential civilian and military actors in both Juba and Bentiu.<sup>61</sup> True or not, the perception shapes opinions in Unity.

Though some of the above objectives may remain, the broader political context has changed. The post-independence political dispensation is still taking shape, prompting elites, ethnic communities and political groupings to assess and re-calibrate their roles and objectives in the new South Sudan. Similarly, the post-independence evolution of security policy will play a role, as illustrated by the divides over the handling of rebel groups which emerged in 2011.<sup>62</sup> Moreover, gubernatorial authority over army activities and appointments (eg, in Unity state) is not only unconstitutional, but resented in some quarters; a senior SPLA general reported resentment over activities in Bentiu that go "beyond the remit of a politician" and even recom-

<sup>56</sup> The other governor who served for the entire CPA period was Clement Wani, in Central Equatoria. A former militia leader whose forces had considerable influence over the security of Juba and the surrounding areas, he was confirmed as governor in 2005 by the late SPLM/A leader John Garang as a means of appeasing him and his forces.

<sup>57</sup> Crisis Group interview, Unity state official, Juba, July 2011.

<sup>58</sup> Machar is a Dok Nuer from Leer County; Matiep is a Bul Nuer from Mayom County. There is indeed a strong ethnic component to Unity state politics and their extension to the national level, and voices demanding greater equality may emerge among the Nuer post-independence. However, the dynamics cannot be exclusively reduced to a Dinka-Nuer fault line. Political alliances and policies increasingly cut across tribal lines, particularly among elites.

<sup>59</sup> Matiep has remained largely out of the public eye since the run-in with Taban in late 2009, though he supported Angelina Teny's bid for the governorship in 2010. He still commands considerable support in areas of South Sudan, as well as within the army, so mainstream SPLM figures thus maintain a cautionary policy of appeasement toward him. However, most surmise the elderly and now ill fighter "has seen it all" and has little incentive to again become actively involved in security politics.

<sup>60</sup> Crisis Group interview, international adviser, Nairobi, September 2011.

<sup>61</sup> Crisis Group interviews, Bentiu, March, August 2011.

<sup>62</sup> These divides are further discussed in Section VI below.

mended to the president that personnel changes be made accordingly.<sup>63</sup>

Institutional questions and the shape of the emerging state will also play a role. For example, significant misgivings were expressed during the drafting of the transitional constitution about the power of governors, ultimately resulting in granting the president power to remove a governor “in the event of a crisis ... that threatens national security and territorial integrity”.<sup>64</sup> This controversial provision generated opposition from a variety of quarters, not least from sitting state governors. It remains to be seen whether the evolving landscape of interests, individuals and institutions will strengthen, or diminish, this and other power alliances.

## VI. REBEL MILITIA GROUPS AND THE POLITICS OF REBELLION

As Sudan’s partition approached, actors in both the political and military spheres saw an opportunity to redefine their relationship with the emerging state in the South and/or its security arm. At least seven rebel militias – some more formidable than others – declared their opposition to the government in Juba, beginning in April 2010. Some rebel leaders appeared motivated by personal or professional gain, and some were encouraged by elements within the North. Others, including those angered by what they believed were unfair elections, assert that rebellion was the only means through which to communicate, and expose, legitimate grievances, at both state and national level.

Several militia groups have been active in Unity state, while others have operated in Jonglei and Upper Nile. This section will not offer a detailed history or analysis of each group, its individual aims or the interplay between it and the government. It will instead focus on security policy in Unity state and highlight in particular the rebellion led by Peter Gadet, given the particular relevance, weight and history of Gadet and his supporting forces in northern Unity and the still complicated relationship between his Bul Nuer community and the SPLM/SPLA.

In responding to rebel threats in Unity and elsewhere, the government has at times pursued a strategy of force and at other times one of amnesty and negotiation. It has also employed some combination of the two, though not always in a coordinated fashion. As rebel activity persisted throughout 2010 and into 2011, deep divisions emerged within the ruling party and the army over security policy vis-à-vis the rebellions, shedding light on a familiar dilemma of integration.

The 2006 integration of Paulino Matiep (as SPLA deputy commander in chief) and allied militias remains both incomplete and a source of considerable resentment within the SPLA, because it and other integrations were premised on amnesties and because of the many officers who were taken in at what were perceived to be arbitrarily high rank. Some, cognisant of a precedent in which rebel leaders have been re-integrated on favourable terms or even rewarded, hoped to end this incentive to insurgency. Those opposed advocated the use of force, so as to crush the rebels and discourage future mutiny.<sup>65</sup> Others sought to continue a near-term strategy of amnesty and reintegration. Though aware it would not be a sustainable strategy in the long run, they were even more conscious that do-

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<sup>63</sup> Crisis Group interview, SPLA headquarters, Bilpam, June 2011.

<sup>64</sup> Chapter II (Functions of the President), Section 101 of the Transitional Constitution of South Sudan (2011), affords the president the power to: “remove a state Governor and/or dissolve a state Legislative Assembly in the event of a crisis in the state that threatens national security and territorial integrity”. In addition to concern that the provision undercuts a constitutional separation of powers, international experts supporting the constitution-making process criticise “the absence of defined conditions under which the powers can be invoked ... as well as the absence of a process through which the power can be exercised”. Crisis Group email correspondence, September 2011.

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<sup>65</sup> The cost of re-integration, new salaries, etc. is also lamented.



mestic unrest could be ill afforded ahead of, or in the immediate wake of independence.<sup>66</sup>

An effective counter-insurgency strategy in Unity state (or anywhere else) requires a united front. Those executing military operations must be on board with the political objective set forth by civilian leadership. However, considerable opposition has surfaced in the SPLA (now the South Sudan Armed Forces).<sup>67</sup> Inconsistencies between or within the government or the army can undermine any agreement, as illustrated in Unity state in recent months. In some cases, the political, economic and ethnic grievances of marginalised communities were exploited to mobilise support, and in a few instances, heavy-handed government responses pushed affected communities toward rebel causes.

Inconsistent policy and counter-productive responses have plagued reconciliation efforts, sometimes yielding more violence, sometimes greater community resentment of the government and its security arm. Some rebels have made disingenuous promises to integrate, only to use temporary ceasefires to improve their position or recruit further. But some have been met with seemingly deceptive engagement by state security organs, which has undermined government credibility and complicated attempts to bring other rebels back into the fold. Rebel activity continues to be a source of instability in northern Unity, as displacement, food shortages, land mines and counter-insurgency operations affect local populations. The war in Southern Kordofan may complicate the calculus further.

#### A. MILITIA COMMANDERS AND FLAWED INTEGRATION

The following is a brief snapshot of a number of militia commanders whose forces have operated in Unity state in the last eighteen months. Several of them participated in forming what they called the “South Sudan Liberation Army” (SSLA) – a loose constellation of forces that operated more often as independent units than a unified movement. Some defected after being previously integrated (or slated for integration) into the SPLA; others remained as officers in Khartoum’s army (the Sudan Armed Forces, SAF) throughout the CPA period. Each has clashed with

SPLA forces in Unity, and each has reportedly enjoyed some degree of support from Khartoum and/or other northern elements. Despite some attempts, a broader umbrella movement incorporating these and other rebel groups has so far failed to coalesce. All have subsequently been engaged in or solicited to talks on integration.

**Bapiny Monytueil and James Gai Yoach.** A Bul Nuer from Mayom County, Bapiny has held the rank of major-general in the SAF since 2005 and maintained links to other former warlords. Gai Yoach is a Leek Nuer from Rubkhona County and likewise an SAF general. After toying with an alliance with renegade General George Athor in neighbouring Jonglei in early 2011, the two formed what later proved a loose alliance with Gadet’s forces, under the so-called SSLA. Reports indicate that the core of initial SSLA forces was a result of groundwork done by Bapiny and Gai Yoach. SSLA members also report that Bapiny has been a critical link between several of the militia groups and those northern army and intelligence units providing support.<sup>68</sup> In August, the two criticised Peter Gadet’s ceasefire with the government, distanced themselves from his re-integration, and reiterated their demand for the dissolution of the government.<sup>69</sup> Numerous national and international actors remain in contact with Bapiny, but there appears no progress as yet in bringing him into the fold.

**Matthew Pul Jang.** A Bul Nuer from Mayom, Pul Jang is a field commander who previously said Bapiny and Gai Yoach were his superiors; his allegiance is unclear after the split within the SSLA. He defected from the SPLA in 2010, allegedly in response to discontent over both integration delays and the conduct of the Unity state election. After initial destabilising activity in Mayom, he began talks with state officials in February 2011 and agreed with then Commissioner John Madeng to assemble his forces in Riak payam for reintegration. SPLA 4th Division officers subsequently questioned whether Pul Jang was instead using the assembly period to regroup and recruit.<sup>70</sup>

Fighting erupted with SPLA soldiers in mid-March, and re-integration plans were abandoned. Some assert the rebels had no intention of returning, while others blamed the state government for luring them in under false pretences. A well-placed official reports that recent army successes against the forces of George Athor prompted a

<sup>66</sup> The stated policy of those willing to, or being instructed to, reincorporate rebels into the army was one of “restore but not promote”. Crisis Group interviews, Juba, June 2011.

<sup>67</sup> Chapter Ten, Section I.2 of the Transitional Constitution of the Republic of South Sudan notes: “The Sudan People’s Liberation Army shall be transformed into the South Sudan Armed Forces, and shall be non-partisan, national in character, patriotic, regular, professional, disciplined, productive and subordinate to the civilian authority as established under this Constitution and the law”.

<sup>68</sup> Crisis Group interview, SSLA member, Juba, August 2011. Crisis Group email correspondence, South Sudan expert, August 2011.

<sup>69</sup> Press Release, SSLA High Command, 4 August 2011. Ethnic disputes, notably perceived domination by the Dinka, have been among Bapiny’s cited grievances. Alan Boswell, “South Sudan rebel groups unite”, Voice of America, 28 March 2011.  
<sup>70</sup> Crisis Group interviews, SPLA officials, 4th Division headquarters, Unity state, August 2011.



policy change from SPLA headquarters, favouring force over engagement, though this could not be verified.<sup>71</sup> In any case, the incident deepened anger among Bul communities (including Peter Gadet himself) and widened the division between the government and SSLA-affiliated rebels.<sup>72</sup>

**Gatluak Gai.** A Jagei Nuer from Koch County and former mid-ranking SPLA officer, Gai was a supporter of Teny's bid for governor and reportedly aspired to a commissioner post in the event of her win. When that did not happen, his rebel forces attacked SPLA installations in May 2010. Sporadic clashes continued on and off in Koch and Mayom counties until mid-2011, amid considerable speculation as to whether or not he was coordinating with other militia commanders. Following independence, and with his forces depleted, Gai agreed with Governor Taban on the integration of his forces as well as his own accession to the rank of lieutenant general, a promotion that would undoubtedly have drawn considerable ire from top army brass. However, days after he returned to his forces in Koch County, he was shot dead. The SPLA maintains a dispute emerged within his own group after Gai allegedly changed his mind and that he was shot by his deputy.<sup>73</sup> Others are convinced that the SPLA is to blame. Regardless, the considerable doubt over the circumstances of his death raises questions as to the government's ability to peacefully and effectively surmount the insurgency problem.

## B. THE STAKES ARE RAISED: PETER GADET

A Bul Nuer from Mayom County, Gadet was a central figure in the struggle for control of northern Unity state and adjacent borderlands during Sudan's civil war. Throughout the 1990s and early 2000s, his activities were motivated by a mixture of objectives more often tactical than strategic; he marshalled his forces sometimes on behalf of the government in Khartoum and sometimes against. Gadet is widely regarded as both unpredictable and a talented and fearsome commander.<sup>74</sup> He challenged his one-time commander and fellow Bul Nuer Paulino Matiep on numerous occasions, most notably in 1999 when he rejoined the SPLA and began attacking the very oil installations that he had once fought to secure on Khartoum's be-

half. His March 2011 defection from the SPLA raised the stakes of rebel activity in Unity state considerably.

It is no coincidence that Gadet's activity – and that of several other militia commanders – was focused in Mayom County. Given the roles Matiep, Gadet and other native sons played during the war, the fact that the area never succumbed to SPLA control, and the Bul community's geopolitical position at the edge of the Nuer and Southern Sudanese frontiers, the legacies of war are particularly acute in Mayom and in interactions between the Bul and their fellow Nuer communities. True or not, other Nuer often depict the Bul as a martial and well-armed people, always eager to fight, and as such they are regarded with caution. Limited development, a sense of neglect, and complaints that they were singled out for a forcible disarmament campaign in 2010 also fuel Bul grievances that some say "softened the ground" for rebel actors in Mayom.<sup>75</sup>

## C. MOTIVATIONS: DECLARED AND PERCEIVED

In March 2011, Gadet left Juba under the auspices of approved medical leave. He instead transited Nairobi for Khartoum, and defected from the SPLA.<sup>76</sup> Soon thereafter, the "Mayom Declaration" was issued by Gadet and two others,<sup>77</sup> calling for the "dissolution of the current government" and the creation of a new administration based on input from all Southern political parties. It lamented the "absolute failure" of governance and "rampant corruption [in] the top echelon of GoSS". The declaration condemned the breakdown of security, services and the rule of law and complained of mismanagement and tribalism within the army and the government. Finally, it objected to SPLM "intimidation" and "a politics of exclusion".<sup>78</sup>

Gadet's grievances appeared to focus first and foremost on corruption and mismanagement within the SPLA. He claims that before rebelling, he went to President Kiir four times appealing for army reform. The "criminal elements" within the army, he argues, are now working at

<sup>71</sup> Crisis Group interview, official close to reconciliation efforts, Juba, July 2011.

<sup>72</sup> Crisis Group interviews, Juba, August, July 2011.

<sup>73</sup> The deputy, Marko Choul, promptly asserted his responsibility for Gai's death on Bentiu Radio. Crisis Group interviews, Juba, August 2011. Sections of Gai's men later began moving to Mapel (Western Bahr al Ghazal) as a first phase of re-integration.

<sup>74</sup> This view is shared by other rebel commanders and senior SPLA officers. Crisis Group interviews, Juba, Bilpam, Bentiu, July, August 2011.

<sup>75</sup> Crisis Group interviews, government officials, intellectuals, Bentiu, Juba, June, August 2011.

<sup>76</sup> An SPLA official reports knowledge of Gadet's likely intentions when intelligence emerged that he was liaising with security officials from Khartoum's embassy in Nairobi. Crisis Group interview, Juba, 14 June 2011.

<sup>77</sup> The other signatories were Brigadier General Carlo Kol, deputy commander of Joint Integrated Unit in Juba, and Colonel Bol Gatkouth Kol, a former SPLM member of the South Sudan Legislative Assembly. Speculation ensued as to whether or not the signatories authored the declaration, or whether they received assistance from other individuals.

<sup>78</sup> "The Mayom Declaration", South Sudan Liberation Army, 4 April 2011, copy obtained by Crisis Group.

cross purposes from those seeking peace and reform.<sup>79</sup> In contrast, SPLA officials, citing Gadet's long résumé of defections, dismiss his rebellion as an exhibition of an all-too-familiar modus operandi. They argue he is not a politician (or even literate) and that his defection was motivated by a desire for personal gain, not political or security reforms.<sup>80</sup> This allegation, and an accusation that money was involved in his eventual ceasefire arrangements, is vehemently denied by Gadet.<sup>81</sup>

Meanwhile, many Unity state elites, seeking an avenue for their own grievances, attempted to tap into the sentiments around Gadet's rebellion. They inferred that it was at least in part about Unity state politics or that the imposition of the governor and SPLA culture in Unity, for example, were manifestations of the problems he outlined in the Mayom Declaration.<sup>82</sup> Some clearly endorse the content of that document but think that Gadet moved too soon.<sup>83</sup>

### 1. Attacks and SPLA engagement in Mayom County

Drawing on SSLA forces, Gadet's men began moving in Abiemnom and Mayom in April 2011, recruiting and arming additional fighters and local youth. After an assault on a small SPLA outpost in the area, threats of imminent and larger attacks mounted. The two most notable occurred in and around the town of Mankien, in Mayom County.

- 21-22 April: Gadet's forces attacked Mankien; SPLA 4th Division officers' homes and the market were burned. Rebels then proceeded north toward the county administrative centre in Mayom town. 4th Division forces responded from Kaikang and Koch County, and fighting intensified on the Mankien-Mayom road.<sup>84</sup> Though ci-

vilians were displaced, they were not targeted.<sup>85</sup> Some observers noted Mankien could not have been captured unless Gadet had local support.<sup>86</sup> Following the clashes, a state official said on local radio that all communications were being monitored, and anyone supporting or providing information to the rebels would be punished. Units from the SPLA's 3rd and 5th Divisions reinforced from Northern Bahr al Ghazal and Lakes states, respectively, pre-positioning against new attacks.

Humanitarian actors withdrew and were discouraged from returning despite the considerable needs of thousands of newly displaced persons, prompting what an aid worker called a humanitarian "black hole". The former county commissioner hoped to use his connections to pursue reconciliation with the rebels but claims that he was not afforded the space to try.<sup>87</sup>

- 20 May: After moving through Gadet's home area in neighbouring Ruathnyibol payam, his forces returned to attack the SPLA in Mankien. Though the sides claim conflicting figures, fighting resulted in considerable casualties for both.<sup>88</sup> The rebels then moved southeast of Mankien, as fighting continued. SPLA soldiers pursued and subsequently set fire to seven Bul Nuer villages in the area, allegedly destroying some 7,800 homes and displacing thousands.<sup>89</sup>

Despite later denials and downplaying by government and SPLA officials, the destruction of villages was ostensibly aimed at sending a message to those perceived to be supporting the rebels. The then-Mayom commissioner, Charles Machieng, was caught between a rock and a hard place, given his responsibilities to both the state government and his aggrieved constituents. In the end, he publicly indicted the SPLA for the village burnings.<sup>90</sup> He was summoned to Bentiu days later, where a group of officials, including the governor and the 4th Division commander, urged him to retract his statement, but he re-

<sup>79</sup> Crisis Group interview, Peter Gadet, Juba, August 2011.

<sup>80</sup> Crisis Group interviews, senior SPLA officers, Bilpam, June, July 2011. Others claim he was angered by the fighting in Mayom and the deaths of relatives. Crisis Group interviews, Bentiu, August 2011; Crisis Group email correspondence, September 2011.

<sup>81</sup> Crisis Group interview, Peter Gadet, Juba, August 2011.

<sup>82</sup> Crisis Group interviews, Juba, Bentiu, June, August 2011.

<sup>83</sup> Crisis Group interviews, Juba, June, July 2011.

<sup>84</sup> Rebel forces laid landmines on this road, reportedly to protect their positions and movement from advancing SPLA, a tactic increasingly employed by affiliated militia groups in Unity. In the ensuing months, land mines laid with less apparent objectives killed and injured not only SPLA forces but also civilians in Mayom, Rubkhona, Abiemnom and Guit counties. Landmines restricted movements and contributed to a sense of insecurity among state constituents. Crisis Group interviews, officials and local citizens, Bentiu, August 2011; UN officials, Bentiu, August 2011.

<sup>85</sup> Crisis Group interviews, Juba, June 2011. An aid worker noted the militias even made contact to inform local NGO staff that civilians and NGOs would not be targeted.

<sup>86</sup> Crisis Group interviews, Juba, Bentiu, June, August 2011. Gadet's forces also appeared to have had informants within the SPLA, as they were regularly aware of its impending movements and activity.

<sup>87</sup> Crisis Group interviews, Juba, June 2011.

<sup>88</sup> Internal UN report, 22 May 2011, obtained by Crisis Group.

<sup>89</sup> Crisis Group interviews, county and international officials, Juba, June 2011. Internally displaced person (IDP) reports corroborate the burning of villages.

<sup>90</sup> Bonifacio Taban Kuich, "SPLA set fire to over 7,000 homes in Unity says Mayom county official", *Sudan Tribune*, 24 May 2011.

fused. He was shortly relieved of his post, after just a few months in office.<sup>91</sup>

In the days following the second Mankien battle, the 4th Division initiated operations in Mayom to drive the rebel forces out of Unity.<sup>92</sup> Unconfirmed reports indicate that SPLA soldiers, who had suffered considerable losses in recent weeks and were showing some reluctance to fight, were permitted (even encouraged) to loot during the operations.<sup>93</sup> Reports of involuntary army conscription also surfaced, with the dual aims of rebuilding depleted force strength and preventing youths from joining the rebellions.<sup>94</sup> The conscription apparently transpired outside of normal SPLA structures and included children.<sup>95</sup> The division commander, James Gatduel, is a Bul Nuer, but on the heels of the village burnings and subsequent SPLA abuses, a Bul Nuer official avowed that he “is no longer a son of our community”.

Such heavy-handed SPLA responses may again backfire, deepening mistrust and generating greater sympathy or active support for renegades among affected communities. Senior SPLA officials did not acknowledge this, but a parliamentary committee reported that the government’s prioritisation of force over dialogue “predictably exacerbated conflict, as was seen ... recently in Mankien and Mayom”.<sup>96</sup>

A series of other attacks, clashes with the SPLA, counter offensives and cattle raids unfolded in northern Unity and across the border in Warrap and Lakes states throughout May and June. Some were undoubtedly the work of Gadet’s forces, and as such neighbouring communities were

increasingly alarmed. But because of the diversity of actors that had fought on behalf of Gadet, and because his forces had indiscriminately armed communities and young cattle raiders, the identity of the perpetrators and their objectives in many such incidents remain uncertain.

The fact that Gadet’s forces received support from northern Sudan is a poorly kept secret. His troops operated from locations in Southern Kordofan state (as well as Abyei and inside Unity), from where they made incursions into Mayom and Abiemnom counties.<sup>97</sup> Both rebel and government intelligence officials report Gadet and other groups liaised with SAF troops at some of these locations.<sup>98</sup> Senior SPLA officials allege Khartoum encouraged Gadet’s attacks to draw SPLA attention elsewhere as SAF forces prepared to invade Abyei.<sup>99</sup> After their return to Juba, Gadet’s inner circle acknowledged that SAF military intelligence had facilitated the purchase, import and delivery of weapons and supplied ammunition. It also claimed to have received weapons and logistical support from an undisclosed foreign source, though this has not been verified.<sup>100</sup>

## 2. Bringing Gadet back into the fold

Initial attempts to engage Gadet faltered, and he made clear that any negotiations would not include the civilian or security authorities in Bentiu: he desired only to engage with Juba. The state leadership, some observers worried, could see this as a threat.<sup>101</sup> The desire to deal directly with the president was primarily an effort to steer clear of the divisions and animosity within the army over reintegration policy. Doing so would afford him the political cover necessary to return.

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<sup>91</sup> Senior officials from Mayom County report that community leaders put considerable pressure on the commissioner not to rescind his statement. Crisis Group interviews, Juba, Bentiu, June-August 2011.

<sup>92</sup> UNMIS situation report, May 2011, obtained by Crisis Group.

<sup>93</sup> Looting included at least one NGO compound in Mankien, where more than \$200,000 of program supplies, radios, furniture, motorbikes and other equipment were stolen and taken to Mayom, where poorly-supplied SPLA units were positioned. Others reported human rights abuses inflicted by SPLA soldiers. Crisis Group interviews, humanitarian officials, UN official, Juba, June 2011.

<sup>94</sup> Crisis Group interviews, UN officials, Juba, June, July 2011.

<sup>95</sup> UN officials report that Unity state has the worst record among Southern states for child combatants in the SPLA. They report children are often demobilised only to be recycled back into the army within weeks. An SPLA official confirmed to international partners that this particular recruitment was not endorsed from Juba but was driven from the state-level. Crisis Group interviews, Juba, July 2011.

<sup>96</sup> Crisis Group interviews, senior SPLA officials, Bilpam, June, July 2011. “Report on the SSLA/PRC Oversight Mission to Bentiu, Mayom, and Malakal”, South Sudan Legislative Assembly Committee on Peace and Reconciliation, 14-18 June 2011.

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<sup>97</sup> Locations included, among others, Nyama and Timsah (Southern Kordofan). Crisis Group interviews, rebel SSLA member, senior national security official, UN officials, Juba, July, August 2011.

<sup>98</sup> Crisis Group interviews, rebel SSLA member, senior national security official, UN officials, Juba, July, August 2011.

<sup>99</sup> Crisis Group interviews, senior SPLA officials, Bilpam, June 2011.

<sup>100</sup> Crisis Group interview, member of Gadet’s rebellion, Juba, August 2011. Following a clash with Gadet’s forces in May, an SPLA military intelligence memo marked “top secret” and dated 16 June reported the following weapons and equipment were recovered: three 60mm mortars, seven PKM light machine guns, three RPG-7 rocket-propelled grenade launchers, 26 AKM assault rifles, two SPG-9 and one B-10 recoilless gun, one long-range radio and assorted anti-personnel mines. Memo seen by Crisis Group. An UNMIS official verified these recoveries and noted that they were all new and identical and that the ammunition and magazines were likewise uniform. Crisis Group interview, UNMIS official, Juba, 13 June 2011. This is rare in South Sudan, where weapons used by armed groups, and even the military, are usually old and of various origins.

<sup>101</sup> Crisis Group interview, UN official, Juba, June 2011.

In June, private international actors supported quiet attempts to initiate dialogue between the key rebels and the GoSS. Contact was made in Khartoum with Gadet as well as fellow dissidents Abdel Bagi (Northern Bahr al Ghazal), Johnson Olony (Upper Nile) and Gordon Kong (Upper Nile) and representatives of George Athor (Jonglei). Gadet's spokesperson was party to this initiative, the objective of which was to develop a common agenda and undertake joint negotiation with GoSS leaders. Attempts to liaise with the president just before independence, including through the prominent Southern figure Bona Malwal, did not bear fruit. Independence was achieved on 9 July, and the initiative, at least with regard to Gadet, was superseded soon thereafter (though talks among other groups have resumed).<sup>102</sup>

In July, Gadet travelled to Jordan via Khartoum, ostensibly for medical treatment. President Kiir quietly sent a trusted British emissary to Amman, flanked by two Kenyan intelligence officials. Their objective was to convince Gadet to come back into the fold, and he eventually accompanied them to Nairobi, so as to further negotiate the terms of his return with Kiir. The group was joined there by South Sudanese officials from national intelligence and the office of the president, though knowledge of the talks was kept within a very tight circle in Juba.<sup>103</sup> After guarantees were given regarding both his security and a private meeting with Kiir, Gadet travelled to Juba and announced a ceasefire.<sup>104</sup>

According to Gadet, in his meeting with Kiir the establishment of two committees was agreed, one to review the political concerns outlined in the Mayom Declaration, and another to organise the reintegration of forces loyal to Gadet. Unlike engagement with other groups, which involved state and SPLA officials, the initiative came directly from the office of the president. This was a critical

aim for Gadet, who concluded that securing arrangements with the country's most powerful actor would limit inclinations by the SPLA or others to thwart the deal.<sup>105</sup> In the ensuing weeks, Gadet-affiliated forces began to congregate in Mayom County to prepare for integration, though food was scarce and tensions were high.<sup>106</sup>

As other negotiations with rebels in Unity and Jonglei have shown, the idle periods (or deliberate slow playing) in the wake of preliminary agreements presents a considerable risk of renewed conflict, thus undermining any potential stability brought about by those agreements. As such, Gadet's group hoped the UN Mission in South Sudan (UNMISS) would play a third-party verification role to safeguard the process.<sup>107</sup> Despite preliminary consideration of a limited monitoring presence, however, the UN decided against it, in part due to security concerns.<sup>108</sup>

In mid-August, Gadet's forces began moving (by barge, foot, and then truck)<sup>109</sup> – first to Lakes state, before continuing toward a military training centre in Mapel (Western Bahr al Ghazal) for integration.<sup>110</sup> However, the pro-

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<sup>105</sup> Crisis Group interview, Peter Gadet, Juba, August 2011.

<sup>106</sup> Calling the situation "unpredictable", UNMISS raised its security level in Mayom to Level 3 (out of 5), which demands the presence of force protection. Crisis Group interview, UN official, Juba, 17 August 2011.

<sup>107</sup> Despite credible concerns regarding the introduction of UN peacekeepers into a hostile area where combatants were largely without food, the initial ceasefire and assembly of Gadet's forces presented an opportunity for UNMISS to safeguard the process by: providing credible deterrence and conducting area patrols to monitor ceasefire compliance by both sides; facilitating communication on the ground between SPLA division commanders and rebels; building confidence and a sense of forward movement; assisting in the registration of rebel combatants to prevent inflated numbers; and thus potentially helping to steer the actors away from renewed conflict and encourage other groups to come into the fold. Such engagement should be considered if a similar situation presents itself with other rebel groups. The UN's predecessor mission (UNMIS) reported that it offered protection to a notably smaller group of Gatluak Gai's forces during early re-integration talks in June, given rebel concerns about SPLA intent, but the rebels did not respond. Crisis Group interview, senior UNMIS official, June 2011.

<sup>108</sup> The rebels remained with their arms and were stationed in proximity to the SPLA. They were also largely without food.

<sup>109</sup> In addition to moving to begin the first phase of integration, the southward movement of forces loyal to Gadet may have been prompted as much by clashes with other SSLA forces that erupted in response to Gadet's ceasefire announcement. Crisis Group interview, international official, Nairobi, August 2011. Copy of August 2011 UN field report; obtained by Crisis Group.

<sup>110</sup> The SPLA regularly relocates such forces, so as not to reintegrate them in their home area. In this instance, the perception of some support for Gadet from within the 4th Division may also have been a consideration. An additional aim in relocating the forces by foot may have been to weed out any "locals" who

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<sup>102</sup> Unconfirmed reports indicate Bapiny and James Gai Yoach have engaged in talks with other Southern rebel movements to again try to forge a joint movement. Crisis Group interview, Nairobi, September 2011.

<sup>103</sup> Peter Gadet's spokesperson, Bol Gatkuoth, also joined the group for talks in Nairobi.

<sup>104</sup> Simon Martelli, "South Sudan rebels declare ceasefire: spokesman", Agence France-Presse, 3 August 2011. The ceasefire was not, however, endorsed by the rest of the SSLA, and it sparked tension between Gadet and the others. Bapiny, Gai Yoach, and other outstanding SSLA commanders immediately issued a statement refuting it and asserting that Gadet did not speak for the SSLA. They also implied that Gadet had been appointed head of an already existing movement to which he did not contribute substantial forces. Lastly, the statement called on the international community to urge the government to accept mediation to achieve a series of political reforms, including dissolution of the current government. Statement, Military High Command of the South Sudan Liberation Movement/Army, 4 August 2011.

cess is not complete; it continues to be driven by President Kiir's office and the SPLA appears reluctant to support it.<sup>111</sup> The committees agreed by the president and Gadet are yet to become active; the technical committee may begin work once forces are settled in Mapel, but senior SPLA officials continue to signal either opposition to integration or doubts as to its sustainability. 4th Division Commander Gatduel was recalled to Juba, reportedly by the president's office, after rumours surfaced that he might undermine the process.<sup>112</sup> Despite clear reluctance, SPLA involvement in integration arrangements is critical, particularly with regard to negotiation of rank. Meanwhile, given Gadet's somewhat weakened position, there remains considerable doubt that the political committee will ever materialise.

As several renegade militia groups remain in the bush, lessons may be drawn from the engagement with Gadet and other rebel commanders in Unity.<sup>113</sup> Meanwhile, two fundamental dilemmas must be addressed. First, the government divisions prompted by the rebellions highlight the underlying security conundrum: how to reconcile the necessity of integration with the unwanted consequences. Perpetual integration – in which the army is regularly asked to absorb the disaffected on a basis of amnesty – is not a sustainable strategy. In fact, it could hamper the very reforms and professionalism the already bloated institution so badly needs, by perpetuating the dysfunctional, divided and semi-professional nature that continues to undermine its potential.

Secondly, the broader North-South strategic relationship, now further complicated by war in Southern Kordofan and Blue Nile, must be addressed. If it does not improve, in political and security terms, the long-standing relations between Khartoum and some rebel commanders and the broader threat of proxy engagement will continue to complicate Juba's stabilisation agenda. Without simultaneous attempts to initiate army and government reforms, to open political space so as to allow more active dialogue,

and to improve relations with Khartoum, the recent rebellions will not be the last.

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may have joined opportunistically (in hopes of being integrated) by making them march the first stretch. Crisis Group email correspondence, UN official, August 2011. Gadet's group refused to allow disarmament or screening for underage soldiers until it reached Mapel; screening and registration are yet to be completed.

<sup>111</sup> Crisis Group email correspondence, UN official, August 2011.

<sup>112</sup> Crisis Group email correspondence, UN officials, September 2011.

<sup>113</sup> Gadet is interested in playing a role in bringing the other groups back into the fold, but his return to Juba prompted deep divisions within the SSLA, possibly instigated by Khartoum. It remains to be seen whether he is positioned to help and if Juba wants to employ him in this regard.

## VII. MISSERIYA MIGRATION AND CROSS-BORDER RELATIONS

The annual migration of Misseriya cattle herders into Unity state and elsewhere in South Sudan has been interrupted in recent years. As the CPA neared its conclusion, national tensions complicated the practice, and the hardened positions of political elites trickled down to nomadic and host communities alike. Violence increased at the border and a series of agreements aimed to facilitate and regulate migration failed. The SPLA thus blocked entry into Unity state. Given persistent North-South tensions, the evolving post-partition political landscape and the absence of both clear migratory arrangements and agreed security arrangements, there remains considerable uncertainty about the coming season.

The Misseriya are Baggara Arab nomads who spend part of the year in the western region of Southern Kordofan state but migrate southward with their cattle during the dry season.<sup>114</sup> Misseriya pastoralists have for generations migrated into the disputed Abyei region and continued across the border into South Sudan, by way of three broad transhumance routes. This usually occurs from November to May, when water and fertile grazing land recedes in the Misseriya's northern heartland.

A series of routes within the western, central and eastern corridors take sections of Misseriya through territory in and around Abyei and, in normal circumstances, further into Northern Bahr al Ghazal, Warrap and Unity states. Much attention has been paid in recent seasons to migration vis-à-vis the Abyei area, but less to the problematic dynamics in final destinations across the border in South Sudan, particularly in Unity. More specifically, groups from the Awlad Umran and Fadliya sub-clans traverse the eastern corridor, often through Dumboloya in eastern Abyei and further east, to reach the waterways and grazing areas of Abiemnom, Pariang, Mayom and Rubkhona counties.

However, the heated dispute over Abyei (both on the ground and on the national stage), concerns surrounding North-South border demarcation, CPA conclusion and the partition of the country are among the developments that complicated migration in recent years and generated anxiety on the ground. The effects of these big-picture concerns have proven particularly problematic for those pastoralists attempting to enter Unity state and for its host communities. The migration season begins again in November, as the rains dry up; Misseriya cattle herders would normally

reach the Unity border near the end of the year. Whether or not they come and what they encounter remain to be seen.

Historically, migration seasons were often preceded by, and concluded with, meetings between representatives from the nomadic and host communities. Agenda items included migration routes and parameters, taxation, monitoring and security protocols and compensatory arrangements for lives or cattle lost. The leadership of, and personal relationships between, pragmatic, well-connected, and experienced local leaders are essential ingredients to the success of such conferences, and there are such actors on both sides of the border. These meetings often went a long way toward preventing conflict and resolving disputes, but the political climate has so tainted the environment that they have happened far less frequently of late or not at all.

### A. MIGRATION TO UNITY STRICTLY CONDITIONAL

The SPLA has in recent years maintained a "no arms policy" toward Misseriya migration south of the border. Given Misseriya concerns about the security of their herds, complaints of attacks, cattle theft and SPLA harassment (not least in Unity), there was little chance they would agree to come without weapons. Local arrangements were negotiated in some other areas in 2009 and 2010, notably Northern Bahr al Ghazal. But the dangerous national rhetoric of war, the unresolved status of Abyei, the state's strategic oil interests and the memory of abuses by war-era Misseriya militias are among the factors that contributed to a more stringent application of the policy in Unity.

In February and March 2010, sections of the Awlad Umran – a Misseriya sub-clan – using the eastern transhumance route were forcibly prevented from crossing into Unity state. Carrying weapons, they were repeatedly repelled by pre-positioned SPLA units, and dozens of cattle herders and soldiers were killed in clashes.<sup>115</sup> Because the migration was diverted, resource pressure increased in the borderlands and further north along the transhumance route, resulting in more conflict. Already worrying tensions escalated with the Ngok Dinka in Abyei, as well as on occasion with Misseriya clans on the central route.<sup>116</sup> Disarming the Misseriya will only be possible if credible security guarantees are in place that are trusted by nomad and host communities alike.

<sup>114</sup> The traditional Misseriya homeland was formerly in the state of Western Kordofan, but it was merged into Southern Kordofan in 2005, to the chagrin of leaders of the Misseriya and other Baggara communities.

<sup>115</sup> Crisis Group interviews, Abyei, November 2010. UN reports, March 2010, obtained by Crisis Group.

<sup>116</sup> A record number of cattle camps were observed in eastern areas of Abyei, indicating the congestion. Crisis Group interview, UN official, Abyei, November 2010.

Some within Misseriya communities feared that partition would result in a hard border, thus impeding migration and threatening their way of life. These fears were played upon by Northern parties who opposed Southern secession.<sup>117</sup> In a July 2010 op-ed, Vice President Riek Machar criticised those who had “mised” the Misseriya and attempted to allay broader concerns by asserting that the customary movement rights of those who rely on the land and water of Abyei and the surrounding migratory areas would be protected, even after 2011. He made clear that “demarcation is not a wall that keeps people (or animals) in or out” and pledged the border would “never be a physical obstacle to any of the customary movements” of peoples from North or South.<sup>118</sup> However, as the crisis in Abyei later heated up and negotiations toward a final solution to its status were unsuccessful, Ngok Dinka leaders began threatening that access would be barred if the territory and its people did not officially become part of the South.

To the Misseriya, the pledges and obstructed migration appear a hypocrisy, yet another in what is perceived to be a series of unjust outcomes at the hands of elites in both Khartoum and Juba. They were angered by the CPA, the merger of Western Kordofan into Southern Kordofan, and subsequent agreements on Abyei – all of which they believed restricted their rights and endangered their livelihoods. Meanwhile, external pressures restricted mobility and forced further lifestyle changes in recent decades, including the expansion of mechanised agricultural schemes; changes in climate; development of the oil sector; and the weakening of traditional administrative structures.<sup>119</sup> The NCP manipulated community structures and co-opted elites, thus eroding confidence in their political representation and ensuring a divided community.<sup>120</sup>

Many Misseriya are thus deeply resentful and disinclined to make any further concessions. There is growing recognition within the community that further lifestyle changes may be inevitable, but they will not happen overnight. Increasing water supply further north through river dredging and creation of hafirs (water retention ponds) may

help to alleviate tensions, but these are not panaceas.<sup>121</sup> Inhibiting access to South Sudan is not a practical option in the near term; in addition to intensifying resource pressure in the border areas, doing so may only harden Misseriya positions and increase the chances that they will resort to arms to be heard.<sup>122</sup>

## B. MIGRATION AGREEMENTS FALTER

As no solution had been found, a more formal meeting was convened in Bentiu in March 2010 to chart a way forward. Governor Taban, Southern Kordofan Governor Ahmed Haroun, representatives from Misseriya, Nuer and Dinka communities and officials and army commanders from Abyei and Unity negotiated a series of resolutions aimed at facilitating a viable migration. They included locations for grazing; limits on weapons that could be carried by nomads for protection: five for a large cattle camp (greater than 1,000 head), three for a small camp (less than 1,000); accompaniment of herds by SPLA or police; establishment of a joint disputes court; administrative fees: five Sudanese pounds (roughly \$2 at the time) per head of cattle; and a commitment to pay compensation for outstanding cases within three months of the meeting.<sup>123</sup>

However, the agreement went unimplemented. Despite the agreed text, significant undercurrents cast doubt over its viability. SPLA commanders who were present continued to reiterate the “no arms policy”.<sup>124</sup> The fact that one of the bodies responsible for implementing such security arrangements was not on board meant there was little chance the agreement would succeed.

Following a series of January 2011 clashes in Abyei, a meeting of Misseriya, Ngok Dinka and Southern Kordofan officials yielded the Kadugli Agreement (13 January), which similarly addressed migration concerns: compensation for incidents in 2010, security and weapons regulations, grazing corridors – including allowed use of the traditional eastern route to Unity – and implementation mechanisms. A second Kadugli Agreement, penned days later by a broader set of political and security officials, including those

<sup>117</sup> A rumour was circulated that an electrified fence would be erected along the border. Crisis Group interviews, Abyei, November 2010.

<sup>118</sup> Riek Machar, “VP Machar says Abyei referendum will occur with or without border demarcation”, *Sudan Tribune*, 21 July 2010.

<sup>119</sup> “Put Out to Pasture: War, Oil and the Decline of Misseriya Pastoralism in Sudan”, Humanitarian Policy Group, March 2009. This report offers a definitive review of the Misseriya and the evolution of their livelihoods.

<sup>120</sup> For more on these dynamics, see: Crisis Group Africa Report N°145, *Sudan’s Southern Kordofan Problem*, op. cit., pp. 13-15.

<sup>121</sup> A hafir is a large retention pond on flat terrain where surface water collects. It can be used by cattle herders, as well as for irrigation.

<sup>122</sup> Crisis Group interviews, Abyei, November 2010; Bentiu, August 2011.

<sup>123</sup> The “Bentiu Agreement” also recommended that oil companies operating in the area assist in digging canals off main waterways so as to increase access to water, as well as pave key road links to increase mobility. “Peace conference for nomadic problems between Unity State-Southern Kordofan-Warrap and Abyei area, 3-4 March 2010, Bentiu” (unofficial translation obtained by Crisis Group).

<sup>124</sup> Crisis Group interview, observer, June 2011.

from Unity, endorsed the 13 January arrangements and further addressed issues of mobility and security.<sup>125</sup> While the agreements looked good on paper, it quickly became clear they did not have broad endorsement on the ground. When that lack of support was coupled with continuing national tensions and more hostilities in Abyei, the migratory arrangements, which would by extension have a direct impact on Unity, again went unimplemented.

### C. UNCERTAIN PROSPECTS FOR THE COMING SEASON

Misseriya herders will begin to migrate again as the rains break in October. Very little is certain about what will transpire in this first season across what is now an international border. The other sources of instability in and around Unity may further complicate migration. That said, there appears a cautious willingness in Unity to welcome the Misseriya, so long as the newly established government in Juba sets the stage by establishing clear rights and protections, an aspiration that remains very much uncertain.

If militia activity and insecurity persists in northern Unity, this may reinforce army reluctance to welcome another element into an already unstable environment. Reports that some of the rebels operating from rear bases in Southern Kordofan cooperated with, armed or employed Misseriya fighters may further reinforce SPLA opposition to migration.

Likewise, the unresolved status of Abyei and the war in neighbouring Southern Kordofan (and Blue Nile) limit operating room in both political and security terms.<sup>126</sup> The new country's forces remain on alert in border areas, as violence has spilled over into the South in some locations, and Khartoum's ultimate intentions remain unclear. Relations between the NCP and SPLM in Kordofan are now hostile. Successful negotiations on migratory arrangements and peaceful co-existence between Governor Taban and his counterpart in Kadugli, Ahmed Haroun, are highly unlikely.<sup>127</sup>

SPLA officials in Bentiu note the no-arms policy will remain, though others are confident it can be relaxed, even if

unofficially, if local agreements can be negotiated.<sup>128</sup> The policy also must be considered in the context of planned civilian disarmament in Unity and elsewhere in South Sudan, as it can create security imbalances and spark cycles of violence if not done evenly.

Concerns persist among the state's host communities regarding the perennial problems of cattle theft and insecurity, which occur most frequently as the Misseriya return north at the end of the dry season. Likewise, memories that Khartoum-backed militias were drawn from Misseriya communities mean suspicions remain. Most recently, Khartoum imposed a blockade of North-South transit routes that devastated local communities. It was implemented in part by armed Misseriya elements, which further underscored mistrust and hardened attitudes about the community as a whole. Consequently, the Nuer and Dinka of Unity often regard the community comprehensively as a "hostile people".<sup>129</sup>

Nevertheless, traditional leaders and county officials from Unity appear hesitant but ultimately willing to work toward peaceful migration in the post-CPA era. The relationship with the Misseriya may be rebuilt, but host communities seek fundamental changes that reflect new realities. There is an expectation that a newly independent – and thus stronger – Juba will provide both firm backing and a platform on which cross-border migration arrangements that protect local interests can be forged at the state and county level.

However, important trade routes remain closed and post-referendum negotiations between Khartoum and Juba over citizenship, immigration policy and border management and security remain to be fully resolved and, more importantly, implemented. International partners pressed the parties in 2010 and early 2011 to negotiate a "soft border", allow for input from border area communities and safeguard cross-border movements, but the parties have failed to demonstrate the necessary commitment.<sup>130</sup> Some headway has since been made on border security arrangements, though only on paper thus far.<sup>131</sup> Furthermore, ques-

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<sup>125</sup> Copies of Kadugli Agreements obtained by Crisis Group. The agreements also addressed opening blocked roads and safe passage for voluntary returnees and issues relating to the policing of the Abyei area. Kadugli is the capital of Southern Kordofan.

<sup>126</sup> For more on the war in Southern Kordofan, see Section IX.B; also Crisis Group Conflict Risk Alert, "Stopping the Spread of Sudan's New Civil War", 26 September 2011.

<sup>127</sup> Crisis Group interviews, Bentiu, August 2011. Haroun was indicted by the International Criminal Court in 2007 for war crimes and crimes against humanity in Darfur; he was then serving as minister of state for humanitarian affairs.

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<sup>128</sup> Crisis Group interviews, SPLA commanders, government officials, Bentiu, August 2011.

<sup>129</sup> Crisis Group interview, former Mayom county chief, August 2011.

<sup>130</sup> Crisis Group email correspondence, international official privy to the negotiations, September 2011.

<sup>131</sup> In June 2011, as talks on other fronts faltered, the parties signed an agreement brokered by the African Union High-Level Implementation Panel (AUHIP) – a team led by former South African President Thabo Mbeki and tasked to facilitate negotiations between Khartoum and Juba on post-CPA arrangements. The agreement pledged establishment of a demilitarised zone 10km on each side of the border that would be monitored by joint military observers, including UN participa-



tions remain as to whether or not the border security mechanisms proposed will facilitate migration, cross-border movement and confidence-building, or inadvertently serve to harden the border.<sup>132</sup> Unless clear steps are taken on these fronts and supported by local awareness campaigns, those looking for support from their capitals may again be disappointed, setting a bad precedent for cross-border migration in the two Sudans.

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tion. However, the degree of the parties' commitment remained in question, and Khartoum soon backed away from the document. In late September, defence officials from Khartoum and Juba signed another agreement, which reiterated establishment of a demilitarised zone and a joint monitoring mechanism and signalled intent to establish ten border crossing points. Per the envisaged monitoring mechanism, the UN Security Council is considering expanding the mandate of the Ethiopian-led UN Interim Security Force for Abyei (UNISFA) to participate in and provide force protection for the joint monitoring mechanism. However, much remains to be done before such an agreement can be implemented, and the war in Southern Kordofan and Blue Nile may complicate or slow implementation further.<sup>132</sup> For more on considerations in designing border security mechanisms, see: Zach Vertin, "Two Sudans: Managing the World's Newest Border Demands Careful Planning", Reuters Alertnet, 8 July 2011.

## VIII. BORDER DISPUTES

### A. THE UNDEFINED NORTH-SOUTH BORDER

Despite the July partition of Sudan, the shared border remains in dispute. Throughout the CPA period, the undefined boundary between North and South hindered CPA implementation, fuelled mistrust between its signatories and contributed to anxiety and insecurity along the border.<sup>133</sup> A Technical Border Committee was mandated by the CPA to demarcate the border as it stood on 1 January 1956, the date of Sudan's independence. Six years later, that committee's work – marred by controversy and without strong political support – remains unfinished, its future uncertain. Following extensive reviews and deliberations, it identified five areas of outstanding dispute.

The area of Heglig and Kharasana, which lies between Pariang, Abiemnom and Southern Kordofan state, was not one of the areas identified. Nonetheless, it remains among those most hotly contested. For the people of northern Unity, its rightful ownership is still very much an open question, as exemplified in the words of the Pariang commissioner: "We have not conceded, nor will we accept, any loss of this triangle".<sup>134</sup> While the genesis of local claims is not oil, the presence of still lucrative reserves appends broader national implications to this dispute.

The disputed area is known to the people of Unity state as Aliny payam, formerly part of Pariang County. Dinka tribes (as well as some Nuer sub-clans) now residing in the surrounding counties claim a traditional tribal homeland that historically extended further north-west. Beginning in the mid-1960s and intensifying again with the discovery of oil, those communities were displaced from present-day Southern Kordofan, including Heglig, and much of the area has since been developed for oil extraction or re-settled by Misseriya.<sup>135</sup>

Here and elsewhere, southerners decry a practice of changing names (eg, Heglig) by Northern elements as part of a deliberate attempt to detach and re-appropriate coveted territory. The details of claims on the border are regularly discussed, including recently on a Bentiu radio station program. As in other tense border areas, these communities hope to see their traditional territories returned to them as part of the new South Sudan.

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<sup>133</sup> Crisis Group Briefing, *Sudan: Defining the North-South Border*, op. cit.

<sup>134</sup> Crisis Group interview, Pariang County commissioner, Bentiu, August 2011.

<sup>135</sup> Crisis Group Briefing, *Sudan: Defining the North-South Border*, op. cit.

Khartoum has been reluctant to complete demarcation, as ambiguity coupled with a policy of agitation along the boundary allowed it to maintain greater control of the petroleum sector, particularly the fields in the Heglig area. More recently, the border has been used as a bargaining chip in the broader post-referendum negotiations. And lastly, it appeared at times during the CPA period that politicians in both national capitals, already fully occupied by political battles, were cognisant of the fact that wherever the boundary was demarcated in the end, domestic constituencies would be unhappy. Post-referendum negotiations continue, albeit slowly, and while preliminary agreements have been negotiated on some border issues, final demarcation remains elusive.

Meanwhile, Northern and Southern armies maintain aggressive postures along portions of the border, most notably in Unity. SAF Brigade 55 (of the 10th Division) is deployed around the Heglig area, and SPLA Brigade 22 (of the 4th Division) operates nearby, with a base in Lalope.<sup>136</sup> Neither side is looking for conflict, but the proximity of forces in such areas, particularly when mixed with high emotions and complicated by the movements of armed nomads, proxy forces and renegade militia groups, presents a considerable risk of conflict, intended or not.

## B. INTRA-STATE DISPUTES: TERRITORIAL AND OTHERWISE

In the early 1980s, the Bentiu/Western Upper Nile district was sub-divided into four, first carving out a new district in Leer, then in Mayom, and finally in Ruweng (present-day Pariang). In the mid-2000s, the state was further divided into its present nine counties. However, many county borders, which roughly took the form of traditional ethnic boundaries, remain disputed. Maps in circulation today are often the imprecise and hand-drawn amalgamation of older maps, satellite imagery, settlement surveys, drainage systems and roads; more of them than not are deemed inaccurate by communities.<sup>137</sup>

In addition to claims over traditional territory, such boundaries also impact government representation, political power and revenue allocation. The GoSS council of ministers established a high-level committee in 2007, chaired by Vice President Machar, to officially demarcate internal Southern boundaries. But as with so many other potentially divisive internal issues, resolution of these borders was deferred until independence was achieved. Unresolved disputes festered in the interim; a community leader called them “a time bomb waiting to explode”.<sup>138</sup>

When the issue is taken on, a review will likely include not only boundaries but also the existence of counties themselves, some of which, such as Abiemnom, population 17,012, are perceived to be economically unviable or do not meet the size stipulations (70,000-100,000) outlined in the Local Government Act of 2009.<sup>139</sup> Other counties with substantially larger populations, such as Mayom (120,715), could be subject to sub-division, a prescription that might generate fierce opposition.<sup>140</sup>

In recent years, border disputes have not escalated seriously, but they remain a persistent source of provocation. Clashes over tracts of land resulting in injuries and deaths have involved the communities of Mayom and Rubkhona, Rubkhona and Guit, Leer and Mayendit, and Pariang and Guit.<sup>141</sup> For example, the row concerning the Bul Nuer of Mayom County and the Leek Nuer of Rubkhona County has proven particularly turbulent of late, and their contested boundary provided the spark. Some argue that this dispute between the Bul and Leek communities is a manifestation of issues deeper than the border; others say it is a kind of conflict not uncommon among agro-pastoralists of the area. But their shared boundary remains a significant concern to traditional authorities of both sides,<sup>142</sup> not least following the killings of two prominent community members and attempts on the life of a third.

In March 2011, Bul Nuer chief Kuar Kuachang was murdered by individuals from the Leek community.<sup>143</sup> His home in Wang Kay payam abuts Rubkhona County, and a dispute over cattle grazing territory and proposed new settlements ended with his death. Murmurs of retaliation quickly surfaced. Later that month, two Bul university

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<sup>139</sup> Appendix 1 of the Act, notes: “A County Council shall be created on the following basis:— (a) the size of a population of (70,000-100,000); economic viability (35 per cent-45 per cent) of total annual budget; common interest of the communities (consideration of minority or majority ethnic group cases as may be decided by the Southern Sudan Legislative Assembly; and administrative convenience) and effectiveness (organisational ability and ease in territorial coverage and communication access) ...”

<sup>140</sup> “5th Sudan Population and Housing Census-2008: Priority Results”, Population Census Council, 26 April 2009. Given rejection of the 2008 census, there is broad endorsement for a new census to be conducted during the transitional period, which may also further delay demarcation of boundaries.

<sup>141</sup> Rubkhona and Guit counties clashed over a tract of land known as Chilak, near Rubkhona town’s administrative centre. Pariang County’s claims on the territory of Manga – home to the current governor’s compound in Guit – remain a point of contention with Guit County authorities.

<sup>142</sup> Crisis Group interviews, Leek chief, Bul chiefs, Rubkhona, Bentiu, Juba, August 2011.

<sup>143</sup> Kuachang was chief of Cineg Par, a sub-section of the Bul Nuer. The assailants were allegedly members of the Cieng Lok-jak sub-section of the Leek Nuer.

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<sup>136</sup> Crisis Group interviews, SPLA official, Bentiu, August 2011.

<sup>137</sup> Internal boundaries disputes are not specific to Unity state; indeed they are contested across much of South Sudan.

<sup>138</sup> Crisis Group interview, Juba, July 2011.

students were passing near the Bentiu home of Thonguar Kuengoug, the paramount chief of the Leek community. Allegedly fearing the students were there to retaliate, they were confronted and beaten, and one was later shot to death while fleeing. Mayom leaders report that, despite their outrage, they actively worked to calm doubly angered communities and advised their youth not to retaliate.<sup>144</sup> Thonguar reported the incident and was for a time under house arrest, in part to ensure his own security.

Weeks later, Thonguar was ambushed while travelling in his vehicle south of Bentiu, reportedly to negotiate compensation over the killings per traditional customs. Some Leek officials pointed a finger at the Bul community, others at Bul members of the state security apparatus, and interactions between the two groups hardened. Police were reportedly deployed and pressure applied to resolve the issue.<sup>145</sup> But Bul community leaders remain angry, citing both a lack of compensation and insufficient action by the state government and judiciary to redress the killings.<sup>146</sup>

Founded or not, some wonder whether government officials may be stoking the rift between the two sizeable communities for political purposes – a claim dismissed as unfortunate politicisation by a senior state official.<sup>147</sup> Despite genuine attempts by individuals on all sides to make a break with the past, such perceptions again underscore the intensity of political polarisation and the relevance of war legacies.

Other factors hamper efforts to resolve such local conflicts, notably ambiguity as to the roles of traditional authorities and county administrators; uncertainty as to the jurisdiction of traditional courts and the state judiciary; inconsistent application of the rule-of-law; the availability of small arms; and minimal extension of state authority to rural areas. Borders are thus not the only source of inter-communal tension in Unity, but resolving them would help alleviate one primary trigger of conflict.

## IX. PARTITION PROMPTS NEW INSTABILITY

### A. ECONOMIC BLOCKADE AND INSUFFICIENT ROAD NETWORK

As North-South tensions spiked ahead of partition in 2011, the NCP imposed a blockade on North-South supply routes. Khartoum offered no rationale for the measure, which generated considerable contempt from both Juba and the international community. Following fighting in Abyei and the death of several SAF troops in May, reports indicate that senior Sudanese army generals demanded the ruling party take action, suggesting an invasion of Abyei. That option was deferred, and the closure of the border was a compromise.<sup>148</sup> The move was likely also part of a broader attempt to squeeze the South ahead of the referendum and thereby extract favourable agreements on the outstanding post-referendum agenda. The political and economic consequences were felt immediately and continue to exacerbate instability in Unity.

Trucks that cross the border on a regular basis were stopped, and airlines prevented from flying goods south. Huge swathes of South Sudan, particularly those that abut northern Sudan, depend primarily on foodstuffs, fuel, building materials and other supplies originating in Khartoum and elsewhere in the North. As such, the embargo caused considerable economic shock and a food crisis in South Sudan, as well as for northern traders whose livelihoods depend on cross-border commerce. Juba adopted measures to counteract the pinch, and suppliers in Kenya and Uganda have attempted to fill the void, but the detrimental effects of the blockade continue to cause pain, not least in Unity state.<sup>149</sup>

The road that begins in the North and traverses the Heglig area before entering Unity is the state's main import axis. It has been blocked since May 2011. Access was also restricted on the second supply route from the north, which originates in Kadugli, passing through Jau and Pariang en route to Bentiu. The absence of a reliable thoroughfare from the south meant Bentiu was abruptly, and dangerously, isolated. Alternative supply chains were devised in Unity state that have stemmed but not reversed the economic shock. Boats are delivering food and other goods from Malakal via the Sobat and adjoining Bahr Al Ghazal rivers.<sup>150</sup> Barges are likewise ferrying goods north via the

<sup>144</sup> Crisis Group interviews, Mayom County leaders, Juba, Bentiu, June, August 2011.

<sup>145</sup> Crisis Group interview, Bentiu, August 2011.

<sup>146</sup> Crisis Group interviews, chiefs, elders, elected officials of Mayom County, Bentiu, Juba, June-August 2011.

<sup>147</sup> Crisis Group interview, Bentiu, August 2011.

<sup>148</sup> Crisis Group email correspondence, international officials, June, October 2011.

<sup>149</sup> "South Sudan accuse[s] the North of imposing a blockade", *Sudan Tribune*, 17 May 2011.

<sup>150</sup> Goods are arriving by boat from the northern Sudan port of Kosti (White Nile state) and transit Malakal or continue direct-

White Nile from Juba, being offloaded at the port at Adok and transported the more than 150 remaining kilometres by road north to Bentiu. Other north-south road corridors have opened and closed erratically, but not in Unity state.

The choking of supply routes caused a huge spike in prices in Bentiu and its outlying county seats, which persists today. The price of basic commodities jumped dramatically in the capital and rose even higher by the time goods reached county markets. The main market serving Bentiu is in adjacent Rubkhona town. In August 2011, a 100kg bag of dura (sorghum) cost as much as 450 South Sudanese pounds in Rubkhona market, an increase of 200 per cent since the crisis began.<sup>151</sup> The price of flour, sugar, cooking oil, fuel and even clean water likewise doubled or tripled. The effects were then compounded, first by seasonal rains, later by the war in neighbouring Southern Kordofan (see below).

Unity state has a limited road network. Only a few are all-season, and those are often oriented around the oil installations or directed to the North. Like in much of South Sudan, the area's poor roads are quickly rendered useless as rainfall intensifies, isolating communities, limiting mobility and further straining trade. War in Southern Kordofan then prevented trade and movement on the Kadugli-Jau-Pariang route, thus emptying one of northern Unity's prominent markets.

Opening an unimpeded route from Juba would facilitate a freer flow of goods from the country's economic centre, thereby bringing down prices and reducing dependency on northern supply routes. An existing route originates in Juba and heads north through much of Lakes state, but conditions deteriorate as it approaches the Unity border, and sections are inaccessible during the wet months.<sup>152</sup> A second link is envisaged – from Lakes state through Panyijar and Leer counties – that would also close the gap

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ly to Bentiu. Transport along this river route has been intermittent and uncertain.

<sup>151</sup> Crisis Group market surveys, Rubkhona market, Unity state, August 2011. 450 South Sudanese pounds is equivalent to \$153, at the current exchange rate of 2.95:1.

<sup>152</sup> Some rehabilitation work began on this route, moving north from the Lakes State capital of Rumbek, including bush clearance of now overgrown areas, but it must ultimately bridge the gap to an existing road in Mayendit County (southern Unity) so as to complete a continuous all-season route all the way to Bentiu. However, the plan – and related improvements such as paving the subsequent section from Mayendit to Bentiu – remains on hold at present. Much of this and other planned road improvements have been contracted to the Khartoum-based Ayat Company, but officials report its work has been minimal since the January referendum.

between Juba and Bentiu, but no work has begun.<sup>153</sup> Officials from the national roads and transport ministry report that most existing proposals and contracts are in flux, as they await review by the newly established government and revision of budget allocations.<sup>154</sup> Meanwhile, rains and fuel shortages inhibit what work might be done in the interim. Such gateways must be opened and made all-season by raising roads, equipping them with adequate drainage systems and either paving or topping them with maram (a heavy red clay that best withstands water).<sup>155</sup>

In the long term, improvement of the nation's road network is vital to ensure the economic viability of places such as Bentiu and thus the development of Unity state more broadly. Improved road networks would also help extend state presence into the vast tracts of land currently inaccessible, facilitating both service delivery and greater mobility for state security services to deter and respond to activities such as large-scale cattle raiding.

## B. WAR IN SOUTHERN KORDOFAN

As the CPA came to an end, still unresolved centre-periphery dynamics in the North were compounded by the political and economic shocks of partition and a tightening of the NCP's grip on power. Old tensions were reignited, and renewed war erupted in Southern Kordofan state, threatening stability in North and South alike.<sup>156</sup> The impact has been felt immediately across the border in Unity state, though the full consequences are still to be determined.

Despite partition, the northern transitional areas of Southern Kordofan and Blue Nile remain home to a significant number of SPLM supporters and SPLA soldiers. Their

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<sup>153</sup> This route would traverse particularly swampy territory. Officials indicate plans for the road to be raised significantly, so as to also serve as a dike to protect existing settlements against perennial White Nile flooding.

<sup>154</sup> Crisis Group interview, official, roads and transport ministry, Juba, August 2011. Though state officials report some contributions have been pledged, both roads would be funded principally by the national government. Infrastructure officials in Bentiu report that state funds were used to improve roads from the capital to county seats from 2007 to 2010, but all now require repair. In cooperation with the state agriculture and forestry ministry, funding was also requested from Juba in March 2011 for another 1,200km of feeder roads, but it too awaits a response. Crisis Group interview, physical infrastructure ministry, Bentiu, August 2011.

<sup>155</sup> Most maram in the area is found in Pariang County, though there are stockpiles also in Rumbek, Lakes state. Crisis Group interviews, physical infrastructure ministry officials, Bentiu, Juba, August 2011.

<sup>156</sup> For more on the threat to stability and the need for renewed international engagement, see: "Crisis Group Conflict Risk Alert", op. cit.

presence was demonstrated in the April 2010 re-election of the SPLM's Malik Agar as governor in Blue Nile and in the delayed May 2011 Kordofan contest, in which the gubernatorial vote was split almost evenly between the NCP candidate (Ahmed Haroun) and the SPLM candidate (Abdel-Aziz Al-Hilu). The election result was rejected by the SPLM on the grounds of fraud, and tensions quickly escalated in Kadugli, the state capital.<sup>157</sup>

The already tense electoral standoff was then exacerbated by an unanticipated move from Khartoum. Its army high command sent a 23 May memo to the SPLA terminating the mandate of the CPA-created Joint Integrated Units, demanding that all SPLA in Southern Kordofan and Blue Nile move south of the 1956 border, and declaring its intention to redeploy SAF forces to all areas north of the border, beginning on 1 June.<sup>158</sup> The complex circumstances of sizeable SPLM contingents (and SPLA constituencies) within the North surely demanded a more nuanced solution, and domestic and international actors had long been calling for a new political and security framework. But Khartoum instead opted for a military option, thus instigating a new war.

On 5 June, the SAF initiated offensives and soon thereafter targeted Kadugli, including the residence of SPLM leader Abdel-Aziz Al-Hilu.<sup>159</sup> Heavy artillery and aerial bombardments were employed, including in densely populated civilian areas. Weeks of horrifying reports followed, detailing intense fighting, systematic targeting of civilians, ethnic cleansing of indigenous Nuba populations (given their historic ties to South Sudan and the SPLM), and extrajudicial killings.<sup>160</sup> Mass displacement and a humanitarian crisis ensued. UN reports allege atrocities that, if substantiated, "could amount to crimes against humanity, or war crimes".<sup>161</sup> Air raids targeted the SPLA's 9th division at Lake Jau on the Unity/Southern Kordofan

border, as well as sites further into Unity's Pariang County, and reportedly continued throughout June.

Civilian communities in Pariang fled south, and considerable numbers of displaced Nubans later began to cross the border to locales in Pariang. Yida, an isolated village of just a few hundred inhabitants, soon became a refugee centre. The difficult to access area is separated from the nearest semi-accessible village by 17km of swamp during the rainy season and is without road links even during the dry months. Initial needs assessments were conducted, but some criticised the slow pace of international response, particularly from relevant UN agencies.<sup>162</sup>

Just one aid group, Samaritan's Purse, was able to access the area via quad bikes to deliver emergency relief supplies, conduct registration and provide transport for a few medical officials. It later undertook food drops – some 200 tons of purchased and later World Food Programme-supplied food – but this is not sustainable, and more support is still needed.<sup>163</sup> UNMISS began twice weekly helicopter flights in late August, but only as far as Panyang. Air access to Yida itself is complicated in part by the sensitivities of flying anywhere near the contested border. Only a handful of humanitarian staff are presently going to the village, in part because access remains difficult, and support infrastructure is non-existent. Furthermore, humanitarian partners are working with far less than what has been requested for such emergency operations.<sup>164</sup>

As refugee numbers surpassed 5,000 in July and with more on the way, Yida – roughly 25km from the undefined North-South border and the ongoing conflict – was deemed an unsafe location. A new site was identified some 100km further south, but assessments and preparations have been slow, refugee representatives have expressed reservations about it, and plans for relocation are thus yet to materialise. When coupled with rains and immobility, it is possible the Yida camp will continue to grow until early in 2012.<sup>165</sup> By mid-October Nuban refugees there numbered more than 14,000, with several hundred "highly vulnerable" refugees arriving every day.<sup>166</sup> The state government and local officials uniformly pledged support to their "brothers", but capacity to react has proven limited, and

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<sup>157</sup> For a detailed review of the Southern Kordofan election, see Aly Verjee, "Disputed Votes, Deficient Observation: The 2011 election in Southern Kordofan, Sudan", Rift Valley Institute, August 2011.

<sup>158</sup> Memorandum dated 23 May 2011, regarding "Termination of JIU Mandate in Blue Nile and Southern Kordofan Areas", signed by General Ismat Abdul Rahman Zain Al-abideen, chief of staff and chairman, Joint Defence Board, obtained by Crisis Group.

<sup>159</sup> Khartoum claimed the SPLA instigated the fighting by raiding a local police station; the SPLA claimed that SAF forces had attempted to forcibly disarm its members.

<sup>160</sup> "UN experts alarmed over atrocities in Sudan's Southern Kordofan region", UN News Centre, 22 July 2011.

<sup>161</sup> "Preliminary Report on Violation of International Human Rights and Humanitarian Law in Southern Kordofan from 5 to 30 June 2011", Office of the UN High Commissioner for Human Rights (UNHCHR), August 2011. The report was produced jointly with the former UN Mission in Sudan.

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<sup>162</sup> Crisis Group interview, aid official, Bentiu, August 2011.

Crisis Group email correspondence, aid officials, September 2011.

<sup>163</sup> Crisis Group interviews, officials, UN High Commissioner for Refugees (UNHCR), aid officials, Bentiu, August 2011.

<sup>164</sup> Crisis Group email correspondence, official, UN Office for the Coordination of Humanitarian Affairs (OCHA), September 2011.

<sup>165</sup> Crisis Group email correspondence, aid worker, September 2011.

<sup>166</sup> Crisis Group email correspondence, aid worker, October 2011. "Weekly Humanitarian Bulletin", OCHA, South Sudan, 15 September 2011.

the influx, if not well managed, could further strain the local economy and a local government whose hands are already full.

The 9 July partition also put SPLA headquarters in a difficult position, as divisions under its command and on its payroll became residents in a foreign country. Unresolved post-referendum security arrangements and the onset of fighting in Southern Kordofan provided little opportunity for a sensible transition.

Some ad hoc support, humanitarian and military, has reportedly continued from the South and the SPLA into Southern Kordofan, though the specifics and extent are not well documented.<sup>167</sup> Khartoum thus pointed a finger at the government of South Sudan, at least in part to divert blame.<sup>168</sup> It is safe to assume that further real or perceived support crossing Unity state will draw public – or further military – attention from the North.

### C. RETURNEE INFLUX

The partition of Sudan prompted the return of huge numbers of Southern Sudanese who were residing in the North. More than 340,000 have gone back to South Sudan since October 2010, some 85,000 of them to Unity, far more than any other state.<sup>169</sup> Some came excited by the prospect of renewal in their newly independent homeland; most feared an uncertain future in the North. All have returned to a country already confronted with a precarious humanitarian context and little in the way of economic opportunity. When coupled with existing stability concerns

in Unity, the short- and long-term challenges of returnee absorption are particularly stark.

As tensions and hardline rhetoric mounted ahead of the January 2011 referendum, many Southerners in the North worried they would lose their jobs and homes or suffer further discrimination if they remained, and their fears were not unfounded.<sup>170</sup> Post-referendum negotiations, which would ideally help chart a future relationship between North and South and define the rights of citizens, were yet to yield results. Tens of thousands, therefore, packed up everything they could carry and began to stream south. They left by barge, bus or whatever means available, their future entirely uncertain. Long, difficult, and sometimes insecure journeys ensued. On several occasions, returnee convoys were intercepted by armed Misseriya militias, in effect held hostage and subjected to extortion and ill-treatment. These incidents heightened tensions in border areas, deepened antipathy toward the Misseriya community and jeopardised negotiations for peaceful migration.

Upon arrival in Unity, few returnees had means to complete the journey to their final destination, which led to makeshift camps and considerable congestion. Government bodies, UN agencies and aide groups scrambled to provide immediate assistance, health and nutrition screenings, food, water and shelter. Registration has proven particularly difficult, not least among the “spontaneous” returnees, those not assisted or organised by government or international partners, who constitute more than half of all those coming to Unity.

Food security concerns increased along with commodity prices. Ad hoc land allocation policy generated disappointment and dispute and necessitates long-term planning lest it quickly become a major source of unrest. Questions of social and economic sustainability remain, both for rural communities absorbing the influx and for the many arrivals who had never been to the South or had not visited in decades. Adaptation has already proven difficult for many, particularly those long accustomed to an urban setting in Khartoum.

A majority of the initial influx of returnees transited Bentiu but eventually moved on to their counties of origin. As returnees continued to arrive in Bentiu, albeit in smaller numbers, in mid-2011, onward travel became more difficult due to the onset of the rains, and in some cases due

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<sup>167</sup> A senior U.S. government official noted SPLA support to forces in Southern Kordofan and Blue Nile was “significant” and “concerning”, and reported attempts had been made to dissuade Juba. Crisis Group telephone interview, September 2011. Humanitarian and other support was also being supplied by private aid groups.

<sup>168</sup> On 30 August, the Sudanese government sent a letter to the UN Security Council accusing South Sudan of actively supporting rebels in both Southern Kordofan and Darfur, including via channels “directly transporting military supplies and reinforcement from the Government of South Sudan to the SPLM-N in Southern Kordofan”, letter signed by Foreign Minister Ali Ahmad Karti (in Arabic, translation by Crisis Group). The claims were categorically denied by South Sudanese government and army spokespersons. “South Sudan denies aiding rebels in Darfur and Southern Kordofan”, Radio Miraya, 31 August 2011. However, difficult discussions continued among the leadership in Juba as to whether or not it should support counterparts in Southern Kordofan and Blue Nile, as well as other peripheries, in pressuring Khartoum. Crisis Group interviews, international official, Nairobi, August 2011; senior SPLM official, October 2011.

<sup>169</sup> Figures drawn from: “Weekly Humanitarian Bulletin”, OCHA, South Sudan, 29 September 2011.

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<sup>170</sup> Khartoum’s information minister drew widespread criticism after he warned in late 2010 that if the outcome of the referendum was a choice for secession, Southerners would “not enjoy citizenship rights, jobs or benefits, they will not be allowed to buy or sell in Khartoum market and they will not be treated in hospitals”. “NCP minister criticised over southern Sudanese in the North ‘will not enjoy citizenship’ remarks”, *Sudan Tribune*, 25 September 2010.

to ongoing insecurity.<sup>171</sup> This strained government relief efforts further and left families vulnerable, many of whose expectations of basic support and rights remain unanswered. Government capacity and preparedness remains low, and humanitarian actors are concerned about significant gaps in planning for long-term absorption.<sup>172</sup> Local authorities continue to lean on the international community.

With so many competing priorities and national attention focused on independence and conclusion of the CPA, returnee concerns faded to the background. But the sheer scale and still untold impact of the returnee challenge may soon force it back to the centre of the state and national agenda.

## X. RESOURCE-DRIVEN INSTABILITY

### A. CATTLE RUSTLING

Despite little commercial exploitation, cattle are a primary currency among Sudan's Nilotic peoples. Many aspects of life are oriented around them, and their significance has often placed them at the centre of confrontations between communities. Cattle raiding and associated conflicts have been a part of agro-pastoralist life for generations. But the nature and scope of the raiding has changed, becoming more violent and a source of considerable concern to communities along much of Unity state's western border.<sup>173</sup> In addition to annual interactions with Misseriya, seasonal raids and counter-raids occur between elements within Unity. Raiding is far more frequent between predominantly ethnic Nuer groups that share a border with the Dinka communities to the south and west. The area of greatest concern is the common Unity-Warrap-Lakes state grazing corridor.

Many of Unity's southern communities feel marginalised by their state capital, left exposed to unchecked criminality and cattle-related conflict with the neighbouring Dinka. Infrastructure, roads and state presence (administrative, security and judicial) are limited across much of the state, deficits that permit ongoing cattle raiding. But the impact of this governance and security vacuum is particularly acute across vast and swampy sections of Panyijar, Mayendit and Koch counties in the south, a region an international adviser called "the end of the world".<sup>174</sup> Here, cattle herders regularly encounter conflict in grazing terri-

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<sup>171</sup> Given the blockade of roads entering Unity, most returnees destined for the state now have to cross the border from the North into Upper Nile state and then travel on their own or with International Organisation for Migration (IOM) support to Bentiu, usually via boat.

<sup>172</sup> Crisis Group interviews, UN and humanitarian officials, Bentiu, August 2011.

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<sup>173</sup> Cows represent wealth and social status and are used for compensation of wrongdoing and payment of dowries. Rustling – the theft of cattle from neighbouring owners or tribes (often to replenish stocks) – is common. However, the widespread acquisition of arms, particularly by youths, has made raiding far more deadly and sometimes undercut traditional practices and authority. For more on the centrality of cattle to pastoralist communities in Southern Sudan, see Sharon E. Hutchinson, *Nuer Dilemmas: Coping with Money, War, and the State* (Berkeley, 1996); and Crisis Group Report, *Jonglei's Tribal Conflicts*, op. cit.

<sup>174</sup> Crisis Group interview, international stabilisation adviser, Juba, August 2011. The Office for Transition and Conflict Mitigation of the U.S. Agency for International Development (USAID) supported stabilisation activities there during the dry season, assisting in the extension of local government and providing resources to authorities to help monitor and manage conflict (county government headquarter buildings, communications and transport equipment, etc.), as well as programs to engage at-risk youth. A series of other projects (local police posts and courts, road improvements, and water points) are envisaged in this corridor, with funding from the South Sudan Recovery Fund, a basket development fund administered by the UN Development Programme (UNDP). Some are underway, but many others remain in planning stages.

tory commonly used by the Dinka communities of neighbouring counties Tonj North and Tonj East (Warrap), as well as Rumbek North, Rumbek East, Rumbek Centre and Yirol East (Lakes). Some 54 incidents of conflict have been reported between and among these communities in 2011, resulting in more than 300 deaths.<sup>175</sup>

Massive cattle raids and recurrent conflict cycles among competing tribes in Jonglei have garnered considerable attention in recent years, and many of the root causes are similar to those involving Unity state and its neighbours.<sup>176</sup> Communities are indeed involved in such conflict, and the ethnic fault line across which much of the local raiding occurs is cause for concern. But state officials also commonly draw a distinction with cattle raiding in other regions by emphasising a greater degree of criminal activity. They decry bands of armed and jobless “criminal” youth who make a living raiding and subsequently selling stolen cattle on the legal market.<sup>177</sup> Some may have an interest in downplaying the issue by framing it purely as criminal, but there is truth to the notion that raiding in Unity may be motivated as much by profit as it is by traditional practices, inter-communal grievances or competition over scarce resources.

The war-era proliferation of small arms has changed the nature of cattle rustling, an act historically carried out with sticks and spears. Violent raiding in this troublesome tri-state corridor has thus drawn attention both to the staggering amount of weapons in circulation and the need for comprehensive disarmament. Now that independence is achieved, focus will likely return to the disarmament agenda, and in fact initial efforts are already underway in southern Unity and adjacent areas of Lakes and Warrap states. Chiefs in Lakes have conducted some voluntary disarmament campaigns; meanwhile, several thousand SPLA are present to undertake further disarmament.

State officials report plans for joint disarmament efforts and note the three governors have proposed supporting initiatives to the president.<sup>178</sup> Such coordination is critical

if any strategy is to succeed. Uneven and forcible disarmament campaigns of years past, including in Unity state, created security dilemmas, deepened antagonism between ethnic communities and undermined confidence in government. Efforts have likewise been marred by poor storage and management and a reluctance to destroy weapons, sometimes leading to those weapons leaking back into communities. Until regions are disarmed evenly and adequate security alternatives are extended in the wake of disarmament, civilians may be reluctant to comply, and violent incidents will continue.

The SPLA high command is convinced renewed disarmament efforts are the only answer to the cattle rustling culture that has escalated in recent years.<sup>179</sup> Removing guns from the hands of civilians is indeed a necessary, but not wholly sufficient, remedy. Broader economic opportunities for youths, food security, greater commitment to decentralised government, a more professional and capable police force, rural infrastructure development, empowerment of local courts and harmonisation with state rule-of-law institutions, and redress of political and social grievances are all part of the equation that is necessary to overcome a culture of cattle-raiding violence in the long term.

## B. OIL

Unity state is home to a significant portion of South Sudan’s proven oil reserves. Its subterranean resources – and those from neighbouring Upper Nile state have fuelled the national economy and generated additional income for the state. However, its citizens remain undecided as to its net effect, as tangible development gains are lacking, allegations of corruption are widespread, and the social and environmental consequences of extraction persist. Likewise, Unity’s producing regions were the epicentre of oil-related conflict and displacement in the 1990s and early 2000s, a history not easily forgotten.

Oil operations in Unity are likely to undergo changes in the wake of partition. The South’s assumption of greater control of the sector will carry with it considerable responsibility. It will also provide an opportunity to review outdated oil contracts and thus revisit financial and transparency practices, employment targets, environmental standards and the relationships between government, oil companies and communities. Despite declining production in Unity, the industry will continue to impact the political, economic and social character of the state for years to come; just what kind of impact remains to be seen.

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<sup>175</sup> Figures of conflict incidents are unofficial; the data is compiled on the basis of reports from local authorities and response assessment teams. Crisis Group email correspondence, UN OCHA officials, September 2011.

<sup>176</sup> For a review of issues contributing to cattle raiding and related insecurity, including the challenges of disarmament, see Crisis Group Report, *Jonglei’s Tribal Conflicts*, op. cit.

<sup>177</sup> Crisis Group email correspondence, UN official, September 2011.

<sup>178</sup> Crisis Group interviews, state minister, Bentiu, August 2011. The initiative also reportedly includes proposals for joint cattle camp development areas, though it is unclear whether such plans will in fact materialise, as they are very expensive and target difficult, swampy terrain. Crisis Group email correspondence, UN official, September 2011.

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<sup>179</sup> Crisis Group email correspondence, UN official, September 2011.



In addition, much is still to be negotiated between North and South on future oil exploitation. Roughly three quarters of the old Sudan's oil reserves are located in the South, but the infrastructure to exploit it – pipelines, refineries and export terminals – are located in the North. Thus, not only do both countries rely heavily on the resource, they also necessarily depend on each other if they are to reap continued benefits in the near term. Protracted negotiations have yet to strike a deal on post-separation settlements, management arrangements and future pipeline tariffs, transit fees and use of northern-based export infrastructure.<sup>180</sup> Some initial changes to existing oil operations are already underway in Unity's fields, but further changes and future development of the industry in the state will depend in part on the outcome of the talks.

### 1. Existing operations and forthcoming changes

Two different oil consortiums operate fields in five of the state's counties (Pariang, Rubkhona, Mayom, Guit and Koch). Concession blocks 1, 2 and 4, which straddle the undefined border and include territories in both Unity state and Southern Kordofan, produce high-quality Nile blend crude. The concession was the most lucrative over the course of the CPA period, but production peaked in 2005, declined significantly in recent years, and recovery rates remain low.<sup>181</sup> Enhanced recovery efforts may slow this decline, but production here and across South Sudan is forecast to continue a steady decline in the coming dec-

ade.<sup>182</sup> The blocks are owned by the Greater Nile Petroleum Operating Company (GNPOC), a consortium that includes China National Petroleum Corporation (40 per cent), Petronas (Malaysia, 30 per cent), ONGC Videsh (India, 25 per cent) and Sudapet (Sudan, 5 per cent). The GNPOC export pipeline, the primary artery of the two Sudans' network, begins in the Unity fields and traverses the Heglig fields and Khartoum before continuing some 1,600km to Port Sudan on the Red Sea.<sup>183</sup>

Negotiations are underway to determine the future structure and operations of GNPOC, since blocks 1, 2 and 4 span the border. Southern officials express desire to divide GNPOC into separate North and South entities, with the latter based in Juba. They say such changes would also include capacity improvements to equip the Unity fields to operate independently.<sup>184</sup> Some have expressed reservations over a GNPOC split, arguing it would be an "extremely costly and complex operation and is likely to result in two poorly-performing companies". They instead promote a joint cross-border management arrangement.<sup>185</sup> Talks are ongoing, but a split appears likely.<sup>186</sup>

The majority of block 5A, now operated by White Nile Petroleum Operating Company (WNPOC), is also in Unity state, with producing fields at Tharjath (Koch County) and Mala (Guit County). The consortium comprises Petronas (69 per cent), ONGC Videsh (24 per cent) and Sudapet (7 per cent). Production is well below expectations for a variety of reasons, most notably the heavy nature of the oil and refining limitations. The flow of oil from 5A, which is pumped together with crude from 1, 2, and 4, is capped at 10 per cent of the total stream flowing through the Greater Nile Pipeline, so as to prevent damage to the refinery in Khartoum.<sup>187</sup> Production will thus decline in step with blocks 1, 2, and 4, though a technical solution to

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<sup>180</sup> Because Khartoum will now lose a significant chunk of its primary revenue stream, it wants the South to help cover the coming revenue gap. In July, Khartoum's negotiating position was on the order of \$10 billion dollars, phasing out wealth-sharing over six years. Its calculation of "resources lost" is based on income generated since 2005 via the CPA wealth sharing protocol. This logic is unacceptable to Southern negotiators, who instead frame a financial package as one of mutual interest between two independent states and refuse any continuation of sharing arrangements. Despite Southern animosity, Juba knows that an economically viable North is in the interest of its own long-term stability. Based on a \$5.3 billion gap analysis calculated by the International Monetary Fund, the SPLM instead offered to contribute \$3 billion to help bridge the gap over the next three years, half in the form of discounted oil, transit fees, taxes, and the other half by cancelling owed arrears. However, negotiating positions continue to evolve. Crisis Group interviews, members of negotiating team, international advisers, Juba, July 2011.

<sup>181</sup> As of May 2011, roughly 60 per cent of the total output from blocks 1, 2 and 4 was from South Sudan. Production in these blocks has declined as follows (figures in thousands of barrels/year): 2005: 102,937; 2006: 92,151; 2007: 89,649; 2008: 74,946; 2009: 64,167; 2010: 55,000. Jill Shankleman, "Oil and State Building in South Sudan: New Country, Old Industry", U.S. Institute of Peace, July 2011, p. 5.

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<sup>182</sup> "Sudan's Oil Industry after the Referendum: Conference Report", European Coalition on Oil in Sudan, December 2010.

<sup>183</sup> The pipeline delivers oil to the refinery and also to Port Sudan for export. It was built by Chinese contractors and came online in 1999 and was later extended to the Unity fields. It was a military target during the latter years of the war. It is operated by GNPOC's primary stakeholder, China National Petroleum Corporation.

<sup>184</sup> Crisis Group interview, senior official, energy and mining ministry, Juba, August 2011.

<sup>185</sup> "How to Separate Siamese Twins", European Coalition on Oil in Sudan, December 2010.

<sup>186</sup> Regardless of the outcome, Juba hopes to secure control of Sudapet's share in both concessions, transferring it either to its own state-owned company, Nilepet, or making it available for sale. Crisis Group email correspondence, petroleum sector experts, September 2011.

<sup>187</sup> Production in Block 5A (figures in thousands of barrels/year): 2005, 0; 2006, 4,346; 2007, 8,586; 2008, 8,067; 2009, 7,152; 2010, 6,102. Shankleman, op. cit.

this problem could allow 5A to achieve its full potential.<sup>188</sup> Meanwhile, the rights to adjacent Block 5B were relinquished by White Nile Petroleum Operating Company in 2010 after a series of exploratory wells were found dry.

With the realisation of independence, state officials report a desire to expand and attract more investors to the oil sector, including to build a small refinery in Unity state with a production capacity of 10,000 barrels per day. They believe such a refinery could service the local market, including the oil companies themselves, reduce external fuel dependence resulting from the state's supply chain isolation, and create local jobs. Chinese, Russian, U.S. and Arab investors have reportedly visited the state to assess such a project, and potential sites have been identified,<sup>189</sup> but an energy ministry official reports that "no strong step has been taken".<sup>190</sup> Likewise, it remains to be seen exactly how this and other proposed refineries would fit into a national oil sector management plan. The issue of refineries became deeply politicised in 2009, when plans for a nationally-funded facility in neighbouring Warrap state were announced, sparking anger, ethnic resentment, charges of nepotism and deepening a political divide between Unity state and Juba.<sup>191</sup>

Employment demographics at oil company installations in the South have also become an increasingly contentious issue. Many have been staffed predominantly by northern Sudanese. In April, the governor abruptly expelled several hundred northern oil workers and engineers, primarily from the Unity fields under GNPOC operation, ostensibly for security purposes but surely also a sign of ongoing mistrust between North and South. Juba had to intervene, including through a visit by the then energy and mining minister, Garang Diing, to secure their return. Governor Taban later demanded that oil companies operating in

Unity must employ locally for those positions not requiring technical skill sets, an indication of broader desire to boost South Sudanese employment in the sector.<sup>192</sup> Likewise, requests have already been made to all oil companies and consortiums operating in the South to relocate their headquarters to Juba.

As Juba begins to assume a far greater role in oil sector management, the government hopes to expand recruitment and education efforts to counter the glaring capacity deficit and create jobs. The review of existing contracts will likely revisit national staff employment targets. The energy and mining ministry hopes to secure more training opportunities abroad, including with the help of GNPOC and its parent companies. It plans to send more Southerners to work at oil installations in Unity in the immediate term, after which it will assess gaps and look elsewhere – including to northern Sudanese – to fill the void.

Lastly, new investment in Unity's oil sector will surely hinge upon improved stability; continued insecurity will discourage companies from further exploration or investment in commercial infrastructure.

## 2. Money well spent?

Questions as to the possibly illegitimate use of state petroleum revenues persist and may only be answered in the future by standardised publication of revenue and expenditure.<sup>193</sup> Gaps in the accounting of state transfers highlight the depth of the problem. In recent years, published though not easily accessible data was generated monthly by the finance ministry's petroleum unit in Khartoum, after production and transfers were agreed by a joint technical committee. Recent data indicates Unity's oil revenue share for January-May 2011 as \$11.38 million.<sup>194</sup> Assuming production rates and oil prices remain relatively constant for the remainder of 2011, its annual share – at a 2 per

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<sup>188</sup> Crisis Group email correspondence, international petroleum sector expert, September 2011. Greater refining capacity, namely the ability to process heavier crude, is one potential solution.

<sup>189</sup> Sites considered include areas at or near producing fields in Tharjath (Koch County), Mala (Guit County) and the port of Adok (Leer County).

<sup>190</sup> Crisis Group interviews, speaker of assembly, Bentiu, senior official, energy and mining ministry, Juba, August 2011.

<sup>191</sup> Several refinery options are still under consideration and will depend in part on the outcome of a North-South deal on oil exploitation. Regional development plans undertaken by the energy and mining ministry in Juba include options for a refinery at Gemmaiza (Terekeka County, Central Equatoria), with a proposed capacity of 100,000 barrels per day, that could export refined products to neighbouring states, most notably Ethiopia. The other proposed refinery, first announced in 2009, envisages a 50,000 barrel per/day facility at Akon, (Gogrial, Warrap state), as part of a joint venture with Khartoum-based Ayat Company. Crisis Group interview, senior official, energy and mining ministry, Juba, August 2011.

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<sup>192</sup> Bonifacio Taban Kuich, "S. Sudan president decrees northern oil workers should return despite Unity state clashes", *Sudan Tribune*, 26 April 2011.

<sup>193</sup> Though a draft petroleum bill currently being finalised makes general commitments to increasing transparency and accountability, it or other oil sector legislation should also include explicit standards governing the verification and publication of revenues and expenditures. The provisions on producing-state allocations should also include publication commitments. A version of the draft bill viewed by Crisis Group does not include these. Crisis Group email correspondence, petroleum sector expert, September 2011.

<sup>194</sup> This data was regularly agreed upon following a monthly meeting of a joint technical committee of officials from North and South. Such a meeting has not taken place since June 2011, due to the partition of the country and stalled negotiations on future oil arrangements. Thus, May 2011 figures (agreed in June 2011) are the most recent available.

cent allocation – would be approximately \$27 million (some 72 million South Sudanese pounds).<sup>195</sup> The state budget, however, projects oil income of just 30 million South Sudanese pounds – a figure already exceeded in the first five months of the year. Similarly, the state budget reports actual oil revenue for 2010 of 22.5 million Sudanese pounds, roughly half the 43 million pounds transferred to the state according to the joint technical committee's year-end report.<sup>196</sup>

These discrepancies illustrate some of the weaknesses of sub-national budgeting practices as much as they hint at corruption. While there has been considerable improvement at the national level, state budgeting and expenditure reporting remain inconsistent and are in some sense still “new” practices, not least because most state ministries suffer from limited technical expertise. Further tightening of sub-national budgeting practices and accounting may help close the door to corruption.<sup>197</sup>

Public scrutiny of incoming revenue transfers will only increase in the years to come, for two reasons. First, greater control of oil revenue within the South will limit opportunities for legitimate or illegitimate finger-pointing at Khartoum. Secondly, the recently-adopted Transitional Constitution of South Sudan increased the share of revenue allocated to producing states from 2 per cent to 5 per cent.<sup>198</sup> A delegation from Bentiu successfully lobbied the

South Sudan Legislative Assembly for this during its deliberations over the draft constitution. Many state officials previously acknowledged the risks of a more significant allocation (economic disparities between states, inter-ethnic resentment, etc.) and cite the negative social and environmental impacts of extraction as the primary justification. Producing state representatives based in Juba more often assert greater claims. Attitudes may shift in the future, and national revenue allocation models are sure to play a prominent role in consultations on a permanent constitution, as whatever model is agreed will impact the stability and character of both producing states and the emerging country as a whole.<sup>199</sup>

### 3. Environmental damage

The negative environmental impacts of oil development in Sudan and South Sudan are substantial. Exploratory activities and reckless extraction practices in Unity state have upset social and ecological systems, displaced populations, diverted waterways and undermined local agriculture. Local populations have expressed anger in recent years and complain most often of water contamination.<sup>200</sup> This is largely a result of poor waste management, specifically the discharge of “produced water generated from oil reservoirs and the disposal of drilling mud and other wastes, which have resulted in the death of livestock and serious illness”.<sup>201</sup>

When it comes to protections, compensation to affected communities, contributions to local development and rehabilitation standards, political elites in North and South largely failed to safeguard communities, address grievances, or hold companies to account. During the CPA period, the primacy of oil development and associated wealth generation meant the interests of oil companies simply trumped those of local communities. South Sudanese authorities indeed showed more, albeit insufficient, interest in rectifying oil-induced social and environmental damage. Unity state's negotiated increase of the derivation allocation to 5 per cent – if genuinely applied to offset negative local impacts – will be a step in the right direction. Southern officials likewise hope to strengthen environmental controls through renegotiation of contracts pursu-

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<sup>195</sup> This calculation is based on an exchange rate of 2.65:1 (the average rate between January and May 2011 set by the Central Bank of Sudan in Khartoum) and figures from the Central Bank, [www.cbos.gov.sd](http://www.cbos.gov.sd). Crisis Group was not able to ascertain the figure used by the state finance ministry in the Unity budget; it is possible it used its own estimation rather than the official rate from Khartoum. Thus, the actual figure in pounds may be considerably higher. If a 2.95 figure is used – which is both the current exchange rate for the South Sudanese pound and the figure Juba is now using for oil revenue transactions – the figure rises to 80 million pounds. Crisis Group interviews, email correspondence, international advisers, September 2011.

<sup>196</sup> Copy of Unity State 2011 budget, obtained from the finance ministry in Juba.

<sup>197</sup> Unity state is currently revising its strategic development plan and associated budget forecasts for the period 2011-2013, so as to align them with the existing national development plan. Counties have been more involved in state development and budget planning since 2011, though there remains some resistance to more “bottom-up” budgeting processes both at the state level and in the national finance ministry. Crisis Group interview, international adviser, Juba, August 2011. Crisis Group Report, *Politics and Transition in the New South Sudan*, op. cit.

<sup>198</sup> Section 178 (1) of the transitional constitution states that: “The 2 per cent payable to the oil producing states shall be increased to 5 per cent and shall be allocated as follows: (a) 2 per cent shall be allocated to the states; and (b) 3 per cent to the communities”, and that the “allocations shall be regulated by

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the law”. How the 3 per cent will be allocated to communities remains to be spelled out.

<sup>199</sup> For a review of oil allocation models and associated potentialities in South Sudan, see: Crisis Group Report, *Politics and Transition in the New South Sudan*, op. cit., pp. 20-24.

<sup>200</sup> Crisis Group interviews, Unity state, March 2011.

<sup>201</sup> Luke A. Patey, “Crude Days Ahead? Oil and the Resource Curse in Sudan”, *African Affairs*, vol.109, no. 437 (2010), p. 617.

ant to forthcoming petroleum legislation.<sup>202</sup> The tone set by the newly independent government and its authorities in Bentiu with regard to future oil sector regulation and enforcement will be a key determinant of future stability and social order in Unity state.

### C. LAND AND COMMERCIAL LAND INVESTMENT

Land ownership and use have long been hot issues among communities in Unity and across South Sudan and have been magnified of late by the lack of clear policies for allocation to recent returnees.<sup>203</sup> As the investment climate stabilises, state officials are actively seeking new foreign investment, and fast.<sup>204</sup> Land acquisitions have generated controversy in recent years, and the potential for new large-scale commercial investments will force land policy and rights issues to the fore. Land pressure may intensify, and questions of ownership, community rights and interests and corresponding government policy must be answered. The brutal lessons of oil sector development in Unity illustrate that rigorous regulations, protections and government oversight are necessary if new conflict is to be avoided.

Since 2005, South Sudan has attracted a variety of (primarily) foreign investors seeking to acquire large blocs of commercial land. The divided post-conflict society, free from real or enforceable regulation, provided fertile ground for cavalier investors to strike deals, often with prominent private individuals and little regard for indigenous populations. Massive tracts and unrestricted resource exploitation rights have been “leased”, including in Unity state, sometimes for a fraction of the actual value. Interests include mechanised agricultural schemes, forestry, oil and mineral exploration, as well as speculation in land values, usually a wager on future oil discovery.<sup>205</sup>

A 2011 report published by Norwegian People’s Aid notes that foreign and domestic large-scale land acquisition together has amounted to 9 per cent of South Sudan’s total

area.<sup>206</sup> Many such deals have flown below the radar, leaving potentially affected communities in the dark. Despite the enactment of a land law in 2009 and establishment of state and national land commissions, mechanisms for enforcement are non-existent. Standards and procedures for managing the sector are not adequate or not adhered to, particularly at the state level. The transitional constitution includes some important protections, and revised land policy is to be formally adopted, but the timeframe is unclear, as it and many other policies await review in the justice ministry.<sup>207</sup> In the interim, the “legal ambiguity of the transitional context” means procedures remain ad hoc, and transparency and accountability suffer.<sup>208</sup>

A landholding arrangement in Unity generated controversy when news surfaced in 2009 that the U.S.-based investment company Jarch Capital had expanded its dealings with Paulino Matiep, and a company run by his son. Jarch secured a lease of nearly one million acres of land ostensibly under Matiep’s “control”. The deal – one of the largest ever such investments in South Sudan – originally covered some 80 per cent of Mayom County, and attempts were later made to negotiate an additional million acres.<sup>209</sup> However, the fate of such opaque deals remains in doubt; county and state officials contend the Jarch deal is already invalid.<sup>210</sup> Other such contracts may also be overhauled or cancelled if and when legislation takes root, and government oversight improves, and investors may desert projects if enhanced compliance, insecurity, or poor community relations alter their cost-benefit analyses.

Meanwhile, local communities hope newer commercial ventures will fare better. Concord, an Australian-operated subsidiary of Citadel Capital,<sup>211</sup> reports it holds some

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<sup>202</sup> A comprehensive environmental impact audit would help establish proper controls for South Sudan, as well as provide a basis to compensate those negatively affected by the industry. The draft petroleum bill is being finalised and will soon be presented to parliament. Crisis Group email correspondence, petroleum sector expert, September 2011.

<sup>203</sup> Points of interest include individual and community rights, grazing and water access, borders, land administration, management and allocation.

<sup>204</sup> Crisis Group interviews, Bentiu, March, August 2011.

<sup>205</sup> David K. Deng, “The New Frontier: A Baseline Survey of Large-scale Land-based Investment in Southern Sudan”, Norwegian People’s Aid, March 2011.

<sup>206</sup> Ibid.

<sup>207</sup> The draft land policy was developed with support of international consultants in 2010. It remains in the justice ministry, after which it should ideally be submitted to the National Legislative Assembly for approval. Crisis Group email correspondence, international advisers, September 2011. Popular support may be growing for improved regulations, as President Kiir noted concerns about land sales in a recent public address and pledged that all sales would be reviewed and future sales regulated by law. “Statement of H.E. Gen. Salva Kiir Mayardit. To the South Sudanese People on Accountability and Transparency” (Undated).

<sup>208</sup> David K. Deng, op. cit.

<sup>209</sup> Ibid. Jarch’s relationship with Matiep began prior to the CPA, when Matiep’s militias were in control of significant portions of Unity’s oilfields, and was then oriented primarily toward oil.

<sup>210</sup> Crisis Group interview, Juba, June 2011.

<sup>211</sup> Concord is a subsidiary of Wafra, a platform company backed by Citadel Capital, “a private equity firm in the Middle East and Africa ... with investments worth more than \$8.7 billion in 14 countries”. “Wafra Concludes First Commercial Wheat Harvest in Sudan”, Citadel Capital ([www.citadelcapital.com](http://www.citadelcapital.com)), 4

250,000 acres in Unity (Guit and Pariang Counties). It has begun developing the land for agricultural use, and enjoys the support of the state government.<sup>212</sup> The company notes that the initial harvest will be sold entirely to the local market, which should boost local food security in the near term. However, there are concerns that its industrial operations are unlikely to generate significant local employment and that low lease payments and considerable tax breaks mean limited economic benefit for the local government.<sup>213</sup> Other firms have likewise indicated desire to develop land first to grow grains to meet local needs, and then, once sufficiently established, to expand their holdings and move on to grow larger quantities of crops for export.<sup>214</sup>

The fervour with which Unity state and South Sudan more generally seek new investments should be balanced by thorough consideration of the following and their impact on state populations: transparency and community consultation, rights and compensation; creation of local jobs; contribution to food security (sale to local vs. international markets); and protection of the environment.

## XI. CONCLUSION

Now that South Sudan's independence has been achieved, attention must turn to the stabilisation agenda at home. The perfect storm of stability deficits in Unity demands particular solutions, but it also demonstrates the scale of the challenge across the country. Popular expectations are high, as communities hope the new era will be marked by improved security, services and development, as well as more accountable government. The new government's success will depend in large part on what can be achieved at the state and county level, rather than in the national capital. Much remains to be done at the centre, to be sure, but national and international actors must look beyond Juba, to the many challenges deferred not only in Unity but throughout the emerging Republic.

**Juba/Nairobi/Brussels, 17 October 2011**

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July 2011. Citadel's interests in South Sudan and Sudan extend well beyond the farming sector.

<sup>212</sup> Crisis Group interview, senior government official, Bentiu, August 2011; David K. Deng, *op. cit.*

<sup>213</sup> Crisis Group email correspondence, Sudanese land expert, September 2011.

<sup>214</sup> One proposal involved a development phase that would be accompanied by a host of agricultural training centres developed in cooperation with the South Sudanese government. Crisis Group telephone interview, journalist, September 2011.

## APPENDIX A

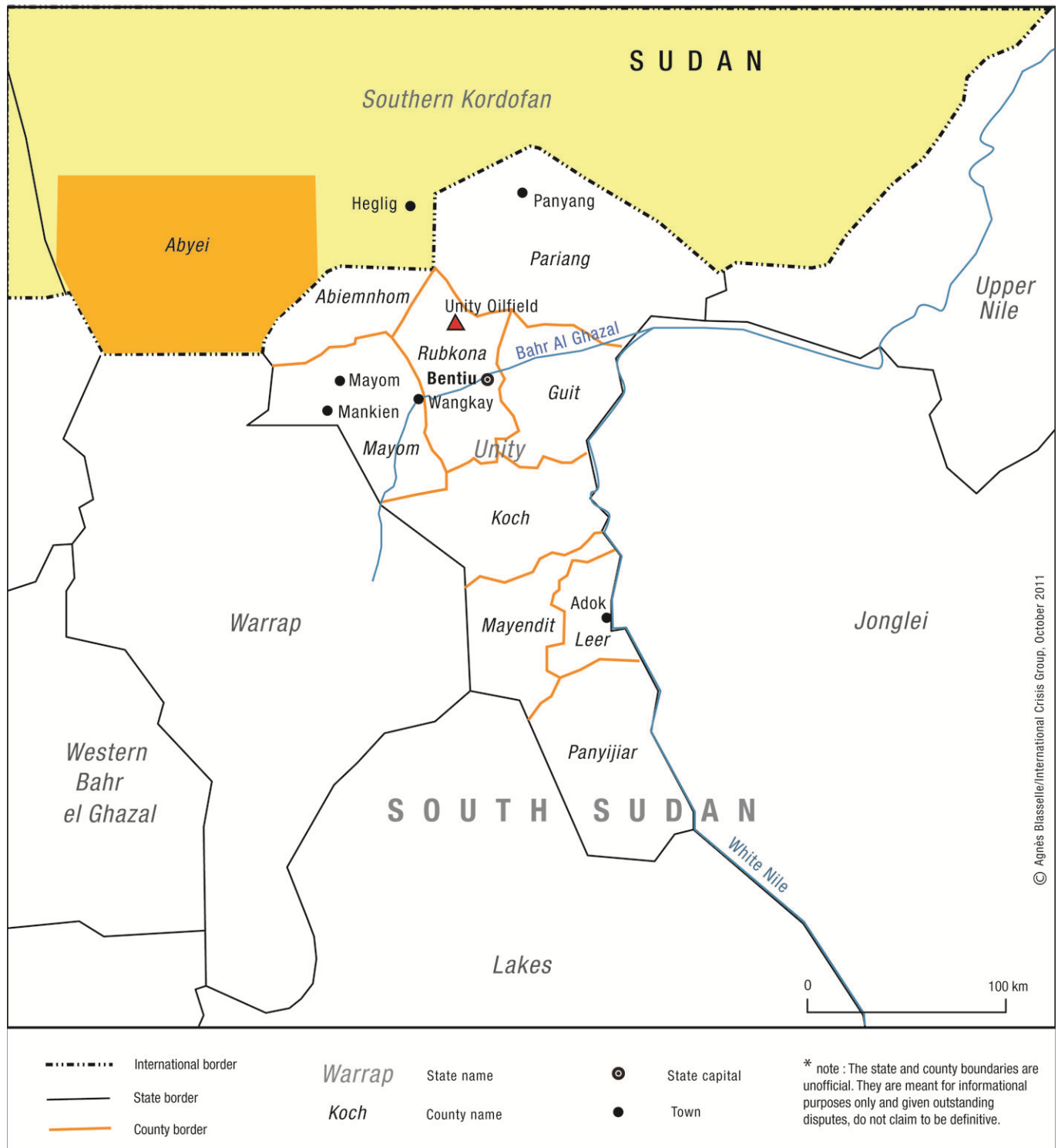
### MAP OF THE REPUBLIC OF SOUTH SUDAN



Note: The map and boundaries represented are unofficial. They are meant for informational purposes only and do not claim to be definitive.

**APPENDIX B**

**MAP OF UNITY STATE**



## APPENDIX C

### MAP OF OIL CONCESSIONS IN SUDAN/SOUTH SUDAN

#### European Coalition on Oil in Sudan



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## APPENDIX D

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

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**October 2011**

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### CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA SINCE 2008

#### Central Africa

- Congo: Four Priorities for Sustainable Peace in Ituri*, Africa Report N°140, 13 May 2008 (also available in French).
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