



Executive summary

This report, prepared by Concordis International under commission from the United States Institute of Peace, examines drivers of conflict in the North-South border areas of Sudan and current initiatives aimed at managing them. The contents derive from desk and field research undertaken in mid-2010. The document is also informed by the views and concerns expressed by participants at workshops in seven locations along the North-South border¹ and at a senior level workshop in Khartoum².

General Findings

Hardening the North-South Divide

The CPA did not fully address the issue of the North-South border in Sudan, which goes beyond demarcation and requires peaceful coexistence between border communities in the years to come. The overall attention on post-referendum arrangements in the last year, though essential, has sidelined the urgent resolution of key CPA benchmarks, which are crucial for the sustainability of the referenda outcome. In assuming that unity could be made attractive, the CPA did not prepare the country for an attractive separation, even though the provision for a Southern Sudan referendum assumed the possibility of both scenarios. Instead, mistrust across the North-South divide has increased at national and local levels.

National mistrust, the consequent lack of full implementation of the CPA and militarisation have amplified instability and missed the opportunity presented by the borderlands. The border areas, among the areas worst affected by war, have received little support from the side of the Government of National Unity (GoNU) and Government of Southern Sudan (GoSS). Today their socio-economic context is fragile, whilst state and local capacity to deal with border governance issues, land disputes and conflict resolution is limited. The CPA has resulted neither in effective state decentralisation nor in the empowerment of traditional authorities for conflict resolution. The reconciliation of diverse identities in a framework of cooperation and mutual respect, as envisaged by the drafters of the CPA, is not achieved. Instead, there has been a hardening of conflict memory in Sudan, and in particular at the borderlands.

¹ The workshops were organised as part of the Cross Border Relations Project, an EU funded partnership between Concordis International and the Centre for Peace and Development Studies at the University of Juba. The locations of the workshops are Bentiu, Renk, Kosti, Agok, Muglad, Kadugli, and Damazin.

² Organised in collaboration with the National Forum for Reconciliation and Peacebuilding with support from USIP and the European Union.

Divergent interests between local and national interests fuel feelings of marginalisation in the border communities

National agreement (formal or informal) on post-referendum arrangements is a necessary but not sufficient condition to secure a lasting peace. The presence of divergent interests, marginalisation, complex alliances, a militarised culture and the availability of arms, also means that local actors risk drawing the CPA parties back to larger scale conflict if their interests are not perceived as being met.

Communities in the border region do not feel that they have been consulted in the definition of the North-South border and Misseriya feel excluded from decisions made regarding Abyei's boundaries. They ultimately perceive that insecurity and uncertainty at the border is driven by national interests; if resolution is achieved at that level then local reconciliations may also be possible. To ensure stability, the border communities say their interests must be reflected in the design of the popular consultations and in arrangements for the post-referendum period.

Border communities fear further marginalisation in the event of internationalisation or continued militarisation of the North-South border. The idea of 'separation' is unfamiliar within populations who have interacted for centuries in the absence of substantial local administration or border governance. Pastoralist livelihoods and increasingly consumer societies depend upon a soft border to allow freedom of movement of people and goods. Border mechanisms to facilitate this whilst guaranteeing security will be required whatever the result of the Southern referendum.

A cycle of reinforcing conflict drivers

Local historical dynamics in the border areas have been reinforced by national disagreement over the control of land, oil and natural resources unresolved by the CPA. In 2010 several clashes occurred between SPLA and nomadic tribes (clashes with Rizeigat in Hofrat al Nahas and Misseriya groups around the South Kordofan-Unity 'triangle'). In the context of unmet CPA expectations at the local level 'Other Armed Groups' are re-emerging as a significant security threat in both North and South and links between armed groups in Southern Kordofan and Southern Darfur highlight the potential for regional instability. The interplay between national politics and the territorial ambitions of former militia in the context of a lack of state consolidation, widespread presence of arms and resentment towards SAF and SPLM/A is a risk to stability in the whole border land (e.g. the post-electoral violence in Unity state and the armament of Misseriya in South Kordofan). 'Tribal violence' in 2009 and the post-election defection of SPLA commanders have also exposed cleavages within the SPLA and wider southern societies, facilitated by the widespread presence of arms in the hands of civilians and former commanders (including police officers).

Ad hoc conflict resolution initiatives are filling some gaps in addressing some of the higher priorities in the conflict areas, such as the Southern Kordofan Reconciliation and Peaceful Coexistence Mechanism (RPCM). However, weaknesses in traditional conflict resolution mechanisms, changes in authority structures resulting from the impact of the CPA and wider development processes and mistrust arising from national and local disagreements undermine most attempts to reconcile populations.

Conflict drivers

Referendum on Self-Determination for Southern Sudan

The principle of self-determination for Southern Sudan and the potential changes in border regime it may bring set the scene within which conflict drivers outlined in the report play out. The stakes are high for local and national interests and national mistrust fuels insecurity on the border owing to the heavy militarisation. The referendum has become a political and security struggle between SPLM/A and NCP/SAF. A lack of ownership of the referendum process for the local population has been observed in the border areas.

Border demarcation and land disputes

The CPA and the forthcoming referendum have intensified local and national conflict over land along the North-South border. Land claims appear to derive both from historical perceptions of land entitlement and from responses to contemporary political and livelihood challenges aggravated during the Interim Period. There are specific points of national disagreement but the whole North-South border area carries potential for local contestation (as do other intra-state administrative boundaries)³. The establishment of State border committees is seen by many border communities as necessary, to reach cross-border agreements and work alongside the North-South national border committee in the final demarcation phase (for example, in Mabaan/Kurmuk and Gulli areas). Moreover, State Land Commissions, sufficiently empowered and endowed⁴, could play a role in dealing with cross-border disagreements and disputes which could easily generate insecurity in the wider border area (for example in South Kordofan).

Strategic mineral resources

Currently, oil is the main driver of national contestation over border demarcation⁵. Since the Permanent Court of Arbitration (PCA) ruling restricted the Abyei area, Heglig (between Unity and Southern Kordofan) has become the most significant contested border area, owing to the scale of reserves, oil infrastructure, and lack of clarity in the border demarcation process. Arrangements regarding the Melut basin in a politically fractured Upper Nile State, not currently contested, are likely to be of increasing importance as its relative share of Sudan's oil production continues to grow vis-à-vis the Muglad basin.

In addition to oil, the borderland is rich in agricultural schemes (Upper Nile pick, White Nile, Blue Nile), copper and potentially uranium (Western Bahr al Ghazal/South Darfur), and gold (Mabaan/Kurmuk). Strategic interest in these resources is reflected in a history of redrawing boundaries in response to the economic opportunities they represent. Lack of clarity in the 1/1/56 line has led to SPLA and SAF deployment within contested resource-rich areas. Border demarcation, compensation, and revenue-sharing can reverse the effects of militarisation and confrontation over control of resources.

³ Research team interviews in the border states, July 2010. Many people living in or near locally contested areas say they could be willing to fight for control of territory.

⁴ Various research team interviews. For example, MOLACD advisor, July 2010 and Unity State Land Commission July, 2010

⁵ Foreign diplomats interviewed in Khartoum suggested that Heglig would be the main reason for disagreement between the Parties over border demarcation: the SPLM consider it a contested area while the NCP say the Permanent Court of Arbitration Ruling on Abyei's Boundaries automatically places the area in Southern Kordofan. This position is repeated down to the community level.

Militarisation and Community Security

UNMIS reports that SAF has redeployed one hundred per cent of their forces from Southern Sudan and SPLA has withdrawn thirty five per cent of their stated strength from Northern Sudan (though initial figures presented by the SPLA might have been inflated)⁶. This does not mean that militarisation of the region is decreasing. Both armies are reported to have deployed heavily along the North-South border and stand in close proximity, particularly around Heglig (at Tishwa), between Abyei and Unity State and in the Upper Nile pick. Both SAF and SPLA are reportedly present in the contested areas of Kajja Kinji and Upper Nile, fuelling mistrust and insecurity at the national and local level⁷.

Militarisation is impacting negatively on community livelihoods (for example, through increasing commodity prices) and further reduces local perceptions of a peace dividend. The presence of arms is widespread. CSSAC and DDR Commission have now coordinating efforts to support voluntary disarmament around the border but the process has not yet started. Failure to agree on border demarcation, oil revenues, or a referendum process carries the risk of national conflict at the border over control of economically and strategically important territory, supported locally by armed civilians, militias and soldiers.

Migration

The post-CPA period has generally intensified mistrust across the border between nomads and southern groups⁸. Nomadic groups are deeply concerned about the impact a change in border regime might have on their access to essential traditional grazing land in South Sudan. The abundance of arms and disgruntled former fighters among affected nomadic groups, in a militarised and highly contested environment, represents a significant threat to stability. Flashpoints are currently limited to the Northern Bahr al Gazal northern belt and the Southern Kordofan-Unity 'triangle', though this could change. The next dry season, starting in October, will be the last opportunity to prevent insecurity from spreading at the time of the popular consultation and referendum.

Traditional mechanisms for negotiating relationships over land use are under stress. The cumulative grievances of unresolved disputes represent a significant challenge to resolving current local disagreements. Nuer and Dinka communities in Mayom and Abyei said that the situation had gone 'beyond traditional cattle raiding' and questioned whether local mechanisms could control volatile elements⁹. However, traditional mechanisms are fruitful elsewhere. Rizeigat, Misseriya and Malual Dinka undertook peace conferences in 2008 and 2009 which have done much to re-establish working relationships. Migrations between White Nile and Upper Nile are also based on ad hoc but functional grazing agreements made between a successful combination of traditional chiefs and administrators.

⁶ Report of the Secretary-General on the Sudan 2010: 9

⁷ Field interviews various with UNMIS Civil Affairs, SPLA officers, members of communities living in close proximity to these areas.

⁸ A dynamic observed in all of the Concordis-CPDS Cross-Border Relations Project workshops.

⁹ Interviews with traditional authorities, Mayom County and Pariang County, May-July 2010.

The three transitional areas: the Abyei referendum and popular consultations

The CPA postponed the problem of the transitional areas, carrying major implications for North-South border dynamics. Blue Nile, Southern Kordofan, the Abyei area are, with South Darfur, the main northern regions lying on the border line. Underdevelopment and insecurity have fostered internal fragmentation and further weakened the capacity of administrations to address border issues.

The potential Abyei referendum is at the heart of national and local conflicts over the Abyei Area. These remain a significant threat to national peace. Misseriya militias are active in northern Abyei and have publicly threatened to fight to destabilise the referendum unless they are deemed eligible to participate. The SPLA, in which Dinka Ngok are represented at senior levels, risks being dragged into conflict if tensions in the Abyei area spill over into violence associated with the referendum.

Blue Nile and Kordofan remained constitutionally northern states as a result of the CPA but were entitled to a popular consultation exercise. From the outset, the scope of the popular consultation was ambiguous and the lack of full implementation of the CPA has fostered expectations of self-determination among local populations. The States have assertive and powerful Governors; however, political commitment does not translate into clear political outcomes. The postponement of the national elections delayed the implementation of the popular consultations. It is consequently harder to delink them from the South Sudan and Abyei referenda. The popular consultation is an opportunity, but also a substantial risk if populations are left unsatisfied by the process.

Citizenship

The option of self-determination of Sudan creates new challenges in relation to citizenship. The Interim National Constitution of Sudan accepts dual nationality but the CPA does not provide arrangements for southerners in North and northerners in South, including militaries, IDPs and nomads in the post-referendum period. Discussion of the situation of SPLA soldiers in the transitional areas is still a taboo. Harder border controls in any scenario will put border communities at risk, in particular nomadic tribes and cross-border residents.

Conflict-prone border areas

According to the CPA, the border between Northern and Southern Sudan should have been determined by the end of the pre-interim period in July 2005¹⁰. A North-South Technical Border Committee was formed. Its mandate was explicitly technical; the Presidency held responsibility for resolving any areas of disagreement. The commitment of the Parties was therefore of utmost importance but has not materialised.

Regrettably with five months left before the scheduled Referendum, the North-South border has not been defined, let alone demarcated. The lack of border definition impacted on a number of key CPA processes (redeployment of SAF and SPLA, wealth-sharing, census/elections) that crystallise today in disputed areas of the border, fuelling mistrust and insecurity at the local and highest level. The Presidency met in August 29th and Parties agreed to proceed demarcating the non contested areas immediately, which represent eighty percent of the border. The work will not be completed before the Referendum but Parties committed to finish before the end of the Interim Period.

Communities in the borderlands say they have not been consulted on the location of the 1/1/56 line¹¹. Their frustration awaiting demarcation decisions that will affect their livelihoods is palpable and their concerns over a referendum without a clarity on border demarcation are mounting.

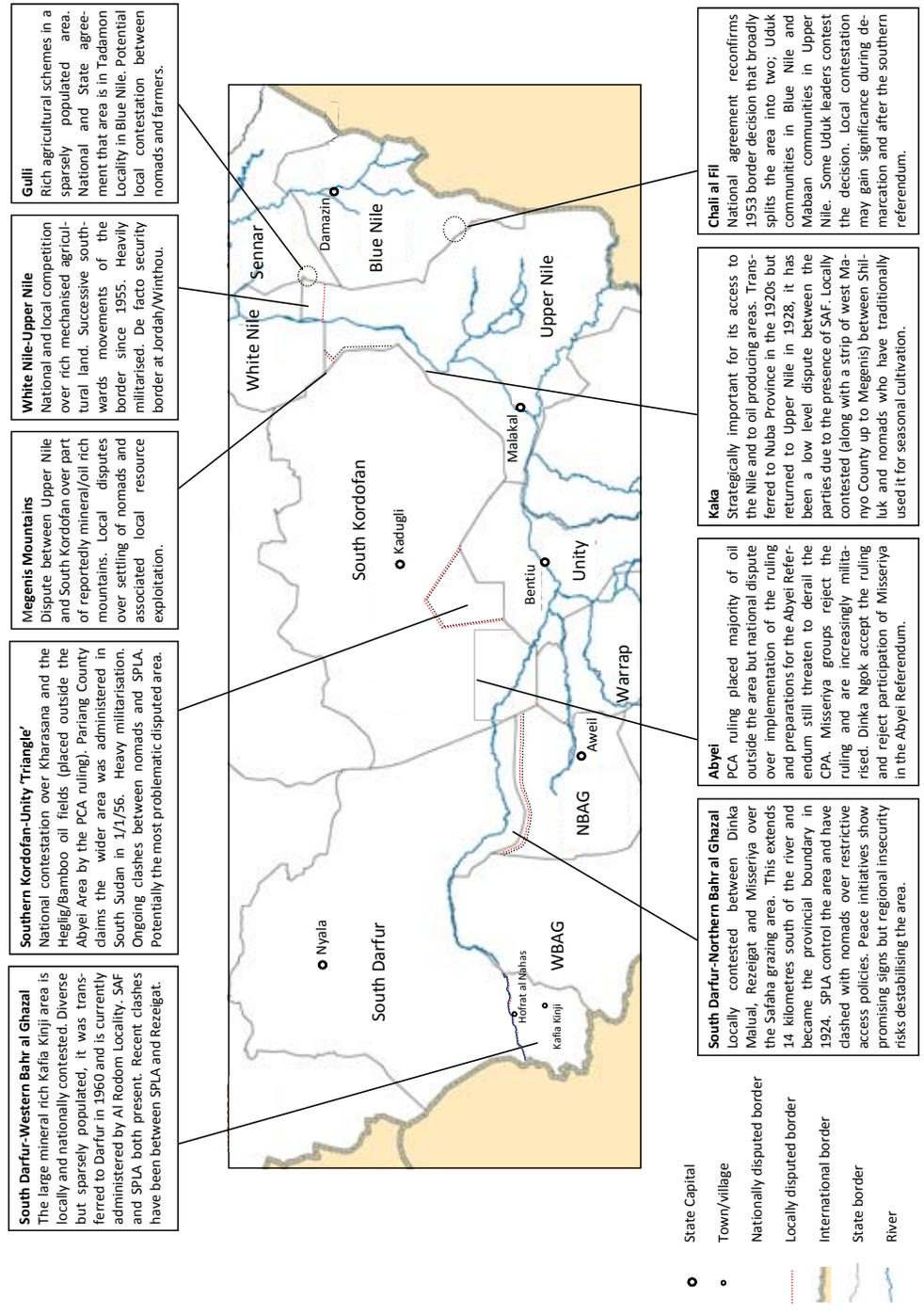
As a result of the field and desk research, a number of potential flashpoints were identified. These are not limited to technical arguments over the ambiguity of maps (for the NCP there are four such points, for the SPLM five¹²). Instead this report includes those areas identified by local communities as nationally or locally contested and hence conflict-prone. The results are summarised in the map overleaf and are analysed in detail in the full report.

¹⁰ Comprehensive Peace Agreement, Part III, 3

¹¹ This dynamic was observed in field work and repeated in Concordis-CPDS workshops

¹² Senior interviewees in Juba and Khartoum. There remains therefore disagreement over which areas are actually contested.

Summary of selected border contestations



The full report is available for download from the
USIP and Concordis websites.

www.concordis-international.org

www.usip.org

