

United States Institute of Peace
Association for Diplomatic Studies and Training
Sudan Experience Project

Interview # 19 - Executive Summary

Interviewed by: Haven North
Initial Interview Date: August 22, 2006
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The Interviewee was a high-ranking U.S. official assigned to Sudan from 1992-95. During this time, the war between the North and the South was being “prosecuted in a brutal way” and “relief operations were being interrupted.” The U.S. “representations or charges (to both sides) were considered by both Governments “without foundation.” Therefore, “the U.S. policy was one of denouncing the excesses of the Sudanese Government, and denouncing their policies such as giving aid and refuge to terrorist organizations.” The Sudanese Government denied these charges, but came to the table to end the rebellion in the South and forge better relations with the West and the U.S. The Clinton Administration was “not as supportive of the SPLA,” but supported the IGAD, even though we did not participate in the negotiations.

Former U.S. Ambassadors to Sudan Petterson and Kontos, as a private initiative, met with government and non-government representatives of the North and South. Their conclusion was that, as long as the war was going on, there could be no improvement in relations with the U.S., in Sudan’s economy, or in reducing repression and human rights violations. Their recommendations were that the “U.S. should take a direct and important part in an international effort to end the war between the North and South... and reestablish a diplomatic presence.” These recommendations were rejected by the Clinton Administration. The East African countries organized the IGAD in 1993 because of the spill over effects of the Sudan war in cross-border operations and refugees. Initially, IGAD was not effective. It received a “big boost” when the U.S., British and Norwegians took a prominent role in the negotiations. “As time went on, we participated in producing negotiating points, ideas for the Peace Agreement ... The role of the U.S. Government was crucial.”

The CPA established the Abyei Boundary Commission (ABC) and the Abyei Protocol to resolve the longstanding dispute over cattle grazing rights between the Ngok Dinka and the Messiriya Arabs. The aim was to provide a compromise on the Abyei boundaries, with the understanding that, if the two parties could not agree, the decision of the five international experts on the ABC would be binding. After exhaustive research, the five experts rendered their decision, but it was not accepted by the Khartoum Government. The SPLA representatives said the decision was final and binding and should be implemented. Since the Abyei area has “a lot of untapped oil” and the Oil Protocol specifies the sharing arrangement for the oil revenues, a referendum for an

independent South would put the oil in the Abyei area under the jurisdiction of Southern Sudan.

One of the expected outcomes of the Peace Accord was that the South would play an important role in the Darfur negotiations. This has not turned out to be the case. The current situation in the Middle East has “taken away the focus and diplomatic resources of countries that might make a difference on Sudan. Absent a determined and strong effort or involvement of the United States and other countries, the chances are that the Peace Agreement is not going to be effective in creating the kind of conditions that would cause Southerners to decide to stay in a united Sudan.”

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Q: What were your associations with Sudan? What periods were you involved in Sudan?

A: I was a high-level U.S. Government official in Sudan from 1992 through 1995. From 1997 until now I have been associated as a private citizen with efforts to end the North-South civil war and to implement the Comprehensive Peace Agreement. And I returned to Sudan in 2005 as the Chairman of the Abyei Boundaries Commission.

Q: What was your understanding and involvement in anything that related to the North-South issues and complex?

A: I represented Washington's views on the war, which were antithetical to the Sudanese Government's declared policy of continuing to prosecute that war and, especially, the manner in which they conducted military operations. In addition, I had oversight responsibilities for the U.S. humanitarian relief program.

Q: What were the Washington views?

A: The war was being prosecuted in a brutal way, with unnecessary and ultimately tragic results affecting the people of the South. For example, there was indiscriminate bombing of villages, interruption of the international relief program in the South, and instances of great cruelty inflicted upon the people by both the Sudanese armed forces and militias that were armed and directed by the Sudanese Government. The Southern rebels also committed human rights violations. It was a brutal war, and U.S. policy encouraged both sides to find a way to end it peacefully.

Q: Did we have any specific advice to the Government or to the South about that?

A: Yes. For example, we cited the aerial bombings as something that we found unacceptable, because they often were not aimed at military targets or, if they were, they were missing them by such a wide margin that they were killing innocent civilians. And there was irrefutable evidence that they were at times deliberately bombing civilian installations, such as clinics clearly marked by red crosses. Again, it was the manner in which the war being prosecuted as much the war itself that concerned Washington. The Sudan Peoples Liberation Army (SPLA) and the army of the Government of Sudan were both guilty of excesses.

Q: What was the response of the Government, or the two groups and so on, to our representations?

A: That our representations or charges were without foundation. The government simply stonewalled, despite the direct evidence that we presented to them of what they were doing -- eyewitness accounts of third parties. For example, in the South, organizations like the Red Cross accumulated substantial evidence of the bombings, the killing of innocent people, and the Government's impediments to the humanitarian assistance program.

Q: Were there other initiatives that the US was taking during this period other than representations?

A: We were very much involved in the humanitarian aid program in Sudan. In Khartoum the embassy had an oversight responsibility for U.S. aid projects carried out in North, such as food aid delivered to hundreds of thousands of displaced Southerners in camps near Khartoum. Much of our time was taken up with representations, on our own or with other donor countries and the UN. The major part of our effort, though, was focused on the South. Through the USAID mission in Nairobi, we worked with Operation Lifeline Sudan, the UN's program in Southern Sudan.

Q: Were there any attempts to bring in other governments at this stage?

A: We worked closely with other major donors, as well as UN agencies. The embassy had a good, cooperative relationship with them, for the most part. There were differences now and then, but we worked as hard as we could in concert to make the aid program more effective.

Q: But more broadly on the political approach to the Government, involving other countries?

A: The U.S. policy was one of trying to influence the Sudanese Government to change its policies and practices. For instance, we denounced the refuge and support they were giving to terrorist organizations. This was a major, major factor in the poor relationship between the Government of the United States and the Government of Sudan. The Sudanese response was similar to its response on the representations we made on the way they were carrying out the war, which was simply to deny that there was anything at all to the charges that were being levied against them. They denied that there were any terrorist organizations in town. They denied any kind of relationship with organizations of that kind, even though we had incontrovertible evidence to the contrary. We also had a problem with their repression of their own people. They were guilty of many kinds of human rights violations, such as large scale detentions without trials, instances of torture of individuals who had been arrested, and various other kinds of abuses.

Q: Were we attempting to bring in other foreign governments, directly or through the UN?

A: Yes, we did and we had some successes in the UN and also with other governments, but not as much as we would have liked. As time went on, the US became more isolated in its policies against the Sudanese Government. We had very little agreement from others, most importantly from our Western European allies, as to the reality of and the extent of Sudanese misbehavior. For example, they did not seem to have the concerns that we did about terrorist organizations. They were more influenced than we were by commercial relationships with the Sudanese.

Q: Were there any UN resolutions at that time?

A: Yes. I cannot remember them specifically but there were a number of resolutions. Some were resolutions that did not have that much teeth, as I recall. However, there were some international sanctions that had been put in place over the years that did cause some problems in Sudan. The government certainly wanted the sanctions lifted. Some of our sanctions were unilateral. In the waning years of the Clinton Administration, the U.S. was more and more isolated in its position of keeping Sudan at arm's length and trying to find ways to get it to change its policies. For various reasons, different governments and major donors did not see things they way we did. Nor at times did the UN. In my experience, UN agencies in the field often do not speak with one voice. When I was in Khartoum, the embassy had good relations with some UN agency heads, not so good with others. Our main difference was with the UNDP over whether the aid program's emphasis should be on relief assistance or, as some UN officials favored, development assistance. Their argument was that development aid projects would lead to positive changes in the Sudanese Government's policies. The United States was quite opposed to this, saying that a government following the odious policies of the Sudanese Government should not be rewarded with development assistance and, moreover, the crying need for humanitarian assistance was quite obvious.

Q: What were essentially the objectives of the Sudanese Government in Khartoum? What were they trying to accomplish?

A: They had a number of objectives. One of course was to end the rebellion in the South. They were, in those years, embarked on an effort to Arabize and Islamize all of Sudan. They wanted better relationships with the West, including the United States, even though they did not do any of the things that the United States was asking or, actually, demanding of them in order for there to be a change in our relations. They persisted in doing what they could to convince Americans that our policies were not appropriate.

Q: What about the SPLA? What were they?

A: When I was there the Clinton Administration was not as supportive of the SPLA as it was later on. There was no doubt that the SPLA was also guilty of human rights violations. For example, they were guilty of committing atrocities against civilians and

using children as fighters in their armed force. Part of the problem with the SPLA and also with other rebel movements in the South was that they were fighting themselves more than they were fighting the Northern forces. So we did have problems with the SPLA, and the Sudanese were right when they said that the United States was much harsher in its denunciations against the North than it was against the South. There was truth in that, but there was a reason for it. The Bashir government's violations were much more widespread than those committed by the SPLA. There was some support in the United States from various Christian organizations and others who believed that the cause of the South was worthy of our government's support, but U.S. policy then was not to support either side.

Q: Did we have any special initiatives before the CPA process to try to bring the parties together?

A: Yes, we did. We were supportive of efforts of East African countries to broker a peace agreement. This was the so-called IGAD initiative. We did not participate directly in those negotiations, but we tried to influence both sides towards a compromise, towards moderation.

Q: More specifically now about the whole process related to the CPA agreement. Did you have a role in that? What was your role?

A: Yes, in 1994 and 1995, but only peripherally. Let me say that I went back to Sudan and Kenya in 1997. This was a private venture that was encouraged by a Sudanese charitable organization called the Haggard Foundation, which paid our travel expenses. A former ambassador and I flew to Khartoum, where we met with government officials, including President Bashir, and with Hassan al-Turabi and other important figures in the community, opponents as well as supporters of the government. We were trying to ascertain whether there was any opportunity for progress towards a peaceful agreement ending the war and also whether there might be possibilities for improving the relations between the two countries.

Q: This was what year, again?

A: 1997. When we went to Nairobi, we met with officials of the Sudan Peoples Liberation Movement/Army, SPLM/A, including John Garang, making the same case for a need to end the war. We also met with President Moi and other Kenyans. We were gathering information to enable us to make recommendations to the United States and Sudanese governments. On the basis of what we saw and heard, the former ambassador and I determined that above all else the need was to end the war, and that there could be no significant improvement in relations between the United States and Sudan as long as the war was going on. In addition, there could be no real improvement in the Sudanese economy because prosecution of the war was hugely expensive and also encouraged repression and human rights violations, which to an extent militated against a good business climate. We also believed that it was necessary for the United States to have

diplomatic representation in Khartoum for Washington to be able to influence the Sudanese Government as well as it could.

Q: We had withdrawn our ambassador?

A: That's correct. In February of 1996, about six months after I left Sudan, the US Government withdrew all of the remaining American diplomats from Khartoum. I say remaining because during my time we cut down our staff considerably and sent all family members home. Washington had done this in the belief, based on clandestine source information, that there was a plot to kill American Embassy officials. That was in 1993, a year after I arrived in Sudan. And then in 1996 there was another putative plot uncovered, involving a threat supported by the Sudanese Government to harm American officials not only in Sudan but also in Washington. That caused the withdrawal of all of our people.

For a few years afterward we carried out our relations with the Sudanese from Nairobi. At first we had an ambassador, who had been appointed as my successor. He stayed in Nairobi and occasionally went to Khartoum for brief stays and then returned to Nairobi and conducted relations as well as he could in that way. However, it was a far from satisfactory arrangement. When the ambassador's assignment ended, he was not replaced. It is worth noting that later on Washington realized that the threats, in both 1993 and 1996, were baseless.

The most important recommendation that my colleague and I made to the Clinton Administration, as well as to the Sudanese Government, was that the United States should take a direct, sustained and leading part in an international effort to end the war between the North and the South. Another element of our recommendation was that we should reestablish a diplomatic presence with an ambassador in Khartoum. The Clinton Administration rejected both recommendations. The basis for this was a belief, which was very strongly held by the Assistant Secretary of State for African Affairs, that the Sudanese were simply beyond the pale, that they could not be trusted, and that they had shown time and time again that there was just no point in trying to deal with them because they were duplicitous and unresponsive to our concerns.

That was pretty much the way things went until the advent of the Bush Administration. However, in the year or so before the end of the Clinton Administration, the beginnings of a kind of dialogue had begun, particularly with respect to the exchange of intelligence information.

Q: A dialogue with the Sudanese?

A: Yes, with the Sudanese Government. Discussions had begun but hadn't really gone very far, and we had not restored normal diplomatic relations.

Q: It was during this time that IGAD began to get involved and I guess it is considered the beginnings of the CPA process.

A: Yes. Actually they had begun in early 1994. I remember going to Nairobi and being on the margins of the conference. We were not a participant but we did talk to both sides. However, as I reported to Washington, the IGAD initiative then was largely ineffective. It just did not have the kind of leadership or staffing or resources that it needed to be an effective negotiator or an effective intermediary with the two parties.

Q: Then they produced a declaration of principles.

A: The Declaration of Principles was a step in the right direction, but was not a significant factor until some years later. IGAD was trying to do something about the conflict in Sudan because the continuing war was having a detrimental effect on the neighboring countries; that is, the influx of refugees from Sudan, the cross-border military operations, and the tension between some of the neighbors and Sudan that arose from their support for SPLA. Thus it was in interest of the IGAD countries to try to find a way to end the war. From this came the creation of the IGAD peace initiative. As I said, for some years IGAD was ineffective. That changed.

Q: What brought about the change? Do you have any understanding about that?

A: Well, it seemed that Moi wished to see himself remembered in part as a peacemaker, and he appointed a highly capable army officer to lead the IGAD effort. In addition, I think there was a greater realization by the governments involved that the war was really something that was not doing them any good whatsoever, and that they should do more to end it. I must say, too, that the peace initiative was given a boost when the United States changed its policy and, together with the British and the Norwegians, took a much more prominent role in the negotiations. Although officially we were not a party to the negotiations, as time went on, in reality we were.

Q: What were we doing?

A: At first we simply were on the margins, giving advice and that sort of thing. Later we actually participated in producing negotiating points, producing ideas for a peace agreement. This difference in U.S. participation came about with the advent of the Bush Administration. For some time in Washington, people like my colleague and I, before he died several years ago, had been working under various auspices, such as the Center for Strategic and International Studies and the Institute of Peace, to influence government policy towards a greater effort to bring peace to Sudan and in some ways also to improve the relations between the two countries. Some of this rubbed off in useful ways on the next administration. My colleague and I joined with like-minded people in sessions in Washington. We deliberated, listened to various speakers, and in time came up with recommendations consistent with the ideas that my colleague and I and others had been advocating, with an emphasis on the United States becoming directly involved in the peace negotiations. When a new official became Assistant Secretary of State for African Affairs, the Secretary of State was amenable to the ideas that the assistant secretary and we on the outside had been espousing. I do not want to say that this was the only reason,

because I am sure that the Secretary of State had his own ideas and he was certainly concerned about the deplorable things that had been happening in Sudan for so many years. As it turned out, the President was agreeable to the proposals for a change in U.S. policy. As recommended, the administration took the step of appointing a special U.S. envoy for Sudan.

Q: This was Ambassador Danforth.

A: Yes, former Senator John Danforth, who made a considerable difference. He had a staff, which included State Department officers, and he went to the area and saw everybody who mattered. U.S. policy was quite clear by that time, and both Sudanese parties were pleased by it. The Sudanese Government had moved further towards a realization that neither side could win the war militarily. Not only did the Government have that in mind, but also they still wanted better relations with the United States. Their cooperation with the United States in an international effort to end the war was a way by which they might achieve that goal. However, this did not mean that an agreement was quickly achieved. It was not until January of 2005 that the Comprehensive Peace Agreement was signed.

Q: And your role in this was as a private citizen? You were out of the government at that time?

A: Out of the government entirely. I would emphasize that the role of the United States Government was crucial. All parties to the negotiations realized this. The British and the Norwegians were also very helpful and played a magnificent role in the achievement of the CPA, but there was no question in my mind that the United States position on and involvement in the CPA negotiations was crucial.

Q: Why was it crucial?

A: Why does it seem that U.S. participation in attempts to end so many kinds of international disputes seems to be called for by the parties themselves? As the most powerful country in the world, we have often been a kind of guarantor of peace, and we have an abundance of negotiating skills and resources that most other countries aren't able to duplicate. A U.S. role is frequently regarded as extremely important, sometimes essential.

Q: Did we work through IGAD directly?

A: Oh, yes, the three governments worked very closely with IGAD. There were other governments involved, but they did contribute much, in my view.

Q: Who were the most important?

A: I do not want to get into who was important and who was not. There were some who claimed they were more important than they really were. Let me emphasize that the

British and the Norwegians were important actors and worked closely with the U.S and, of course, with the IGAD members.

Q: Did we have a specific agenda of ideas, what should be done by IGAD?

A: In addition to other initiatives it took, the United States drafted a proposal on the Abyei boundary dispute, an essential element in an eventual peace accord. That proposal, as far as I know was agreed to *in toto*.

Q: But we were not involved in actually doing the negotiations, or were we?

A: Not actually the negotiations, no. Not at the table with the sides, no, but we worked with the parties outside the negotiations themselves. We had people there working on a steady basis.

Q: The CPA that came about had a whole number of sections related to power sharing, oil wealth sharing, security arrangements and the interim period before a referendum and so on. Were we involved in any of those proposals?

A: I have to believe that we were, since we played such a direct role. I don't know because I didn't discuss all the details with people in State. As time went on, I became focused on one element of the negotiations which was outside of the CPA yet linked to the CPA. That was the Abyei boundaries issue.

Q: Is there anybody else that you have not mentioned involved in this process? My understanding is that IGAD was reasonably well led at this point.

A: Oh, yes. General Lazaro Sumbeiywo was a man of superior abilities, and he manifested that the Kenyan Government was taking a more serious approach to making the peace agreement work. He was a cut above the other people whom Moi had appointed to head the IGAD effort. Kenya was the key partner in the negotiations. So when Moi appointed Sumbeiywo, it signaled a greater involvement and, in the end, a more effective involvement.

Q: Apart from the European governments, were other groups involved in promoting this Agreement and all?

A: I can't imagine that there weren't. There were many NGOs, as well as the UN itself, working for an end to the war, in one way or another. But the UN did not play a key role. The UN didn't just sit back and watch, but they were not a major partner.

Q: Why was that, do you think?

A: For one thing, there was no desire by the parties, especially the Sudanese Government, for UN involvement.

Q: Did you have any sense about how the negotiation process proceeded and so on, what worked, what did not work? I know we put forth ideas and things of this sort.

A: No. I am sure you will have other people you will talk to who know much more about that than I. But what I think will be borne out by other testimony is that the relationship that developed between John Garang, the leader of the SPLM, and Ali Osman Taha, the then first Vice President of the Sudanese Government, was crucial. The two developed a very positive relationship that, by accounts that I have heard, was a major step forward and became an essential element of the two sides coming together.

Q: You have any feel for why this came about?

A: No, I do not. I have been told it was chemistry, and also that they were two men of great ability who wanted to see the thing work.

Q: Of course we lost John Garang later. Have you had any sense of how this thing is now being implemented and how it is working out, at all?

A: Well, again, I am no longer in the government, but what I have heard from Sudanese, both Northerners and Southerners, but particularly Southerners, and others is that the Agreement is being implemented slowly, some say dangerously slowly, and that it is just not working well. Whether this constitutes a very volatile situation right now, I don't know. However, there is no question that things are not moving as quickly as most people had hoped. That seems to be not across the board, but in many facets of the CPA.

Q: Do you have any idea which specific areas?

A: Well, the amalgamation of the SPLA and the armed forces of Sudan into a merged force. Both sides will of course keep their own forces, but there was to be the important element of a merged national force involving members of the armed forces of the two sides. That has not moved as well as it should, in the eyes of many. I can comment most directly to the Abyei areas question, because I was directly involved in that.

Q: But some of these other provisions about sharing of oil and security arrangements and so on, do you have any sense that those are progressing at all?

A: I am not in a position to say with any accuracy. I have heard that there have been questions and dissatisfaction about the oil revenues, but I do not know for sure. And that information may well be dated, so maybe there has been progress there. Again, others who are directly involved in the current state of affairs will be able to give you better information on that.

Q: What kind of prospects? Of course, we have a six- year period which is...

A: That is correct.

Q: Passing, time passing. You think it will lead to a referendum or is that going to be a possibility?

A: It should lead to a referendum, unless the whole thing breaks down. That is and will remain a possibility, but it does not appear imminent, and nobody is saying at this point that things will go so badly that there is not even going to be a referendum.

Let me focus, if I can, on the Abyei business, because that is a crucial part of the overall picture. If the Abyei Boundaries Commission's findings are not implemented, it doesn't augur well at all for the overall implementation of the CPA. And let me explain that. I was asked by the Department of State if I would be the American representative on the Abyei Boundaries Commission. The CPA negotiations produced a protocol on Abyei because the two sides could not agree on a solution. And because they could not agree they created a commission to try to resolve that vexing problem.

Q: What was your understanding of the nature of the dispute?

A: Its genesis goes way back, to the very beginning of the Anglo-Egyptian Condominium for Sudan, which was put in place after the British defeated the forces of the Khalifa Abullahi at the Battle of Omdurman in 1898. The Khalifa was the successor of the Mahdi, the visionary who, in 1882 declared a jihad to drive the Turco-Egyptian forces out of Sudan. The Turco-Egyptians had conquered Sudan beginning in 1820, and had been very repressive in how they governed Sudan. They had been involved with Arab slavers in slaving operations against the Southern Sudanese. The Mahdi annihilated the Turco-Egyptian forces sent against him. He captured Khartoum and, in the process, killed a British icon, General Charles "Chinese" Gordon. For internal political reasons the British did not retaliate directly until 1898, when they were concerned that the French were possibly going to try to colonize Sudan. In addition there was a growing clamor in Britain for revenge for Gordon. The British also feared that the forces of the Khalifa, that is, the Mahdists, might threaten Egypt, which they had been governing for some years. These three factors led to the march of British forces from Cairo up the Nile to Khartoum, the famous Battle of Omdurman, and the subsequent colonization of Sudan by Britain. The British ruled Sudan for the next 57 years, beginning in 1899.

During the early years of the 20th century, the Ngok Dinka, in the area known as Abyei, a sub-tribe of the Dinka, the largest ethnic group in the South, was raided by Misseriya Arabs, a Baggara Arab tribe that lived in the area now known as Western Kordofan. Arop Biong, the Ngok Dinka leader, complained to the British authorities about these raids. The British decided to change the administration of the Ngok from Bahr el Ghazal province, which was in the South, to Kordofan, which was a Northern province, for two reasons. First, it was very difficult for the British to administer the Abyei area from Bahr el Ghazal because of the topographical obstacles that made it very difficult to travel from the South to this Abyei area. It was much easier to travel from the North, from Kordofan. Second, the British came to the conclusion that because the dispute involved the two peoples, it made sense to put both of them under the same administration. So in 1905 authority over the Ngok Dinka was transferred from Bahr el Ghazal province to Kordofan

province. The people weren't moved but authority over them shifted. This seemed to work out pretty well because of the leadership of both the Ngok Dinka in those years and the leadership of the Misseriya. Also, the British helped maintain the peace between the two groups.

The peace meant that normal cattle grazing patterns would continue. During certain periods in the year, the Misseriya would bring their cattle down south into areas occupied by the Ngok Dinka, and the Ngok Dinka would move their cattle farther south. Then the two groups would bring their cattle back north again, with the Misseriya taking their cattle to their headquarters area of Muglad and Babanusa. This pattern of transhumance had been going on for years and continued peacefully, by and large. However, in 1965 the war between the North and South came to the Abyei area. Many of the young men of the Ngok Dinka joined the SPLA., and the Misseriya took part in militia in raids against the Ngok. The fighting having reached there, in time, the Abyei area was virtually denuded of Ngok Dinka. Over the years, the Misseriya came to see the area as rightfully their own.

This was the history that led up to an intense dispute that neither side would give way on. Neither the Ngok nor the Misseriya were inclined to compromise, at least their leadership wasn't. The Misseriya were supported by the Government of Sudan and the Ngok were supported by the SPLA. Because of the intransigence of both sides and the difficulties that were inherent in the issue, there was no agreement on Abyei in the CPA. But, as I mentioned earlier, the Americans put forth a proposal for a separate arrangement to be made for the Abyei area. This was called the Abyei Protocol.

The Protocol stipulated that an Abyei Boundaries Commission would be appointed to find a solution to the problem. Its mandate was to define and demarcate the area of the nine Ngok Dinka chiefdoms transferred from Bahr el Ghazal to Kordofan in 1905. An executive council to administer the area would be appointed initially, and then elected later. Various other elements of an administration were incorporated into the Protocol, as was a formula for sharing revenue from oil produce in Abyei. The job of the ABC was to define and demarcate the area in question.

Q: Who made up the Commission?

A: The Commission was to be made up of 15 persons. The Government named five, including some Misseriya; the SPLM appointed five, including some Ngok Dinka; and the other five were appointed by the United States, the UK and IGAD. By agreement, the United States would appoint one, the UK one, and IGAD three. The five outsiders, who were called "experts," were a Kenyan, an Ethiopian, a South African, a Briton, and an American. These were Godfrey Muriuki, a professor of African history at the University of Nairobi; Kassahun Berhanu, a political scientist from the University of Addis Ababa; Douglas Johnson, a scholar, publisher and expert on Southern Sudan, who did a lot of work with the Nuer; and me, as the American rep. The fifth representative was not appointed until later. The IGAD had thought they had the services of a Ghanaian professor, who, however, equivocated and then at the last minute dropped out. So when

we started our work, we did not have the fifth member, who joined later. He was Shadrack Gutto, a lawyer and law professor at the University of South Africa and an expert on land usage

We gathered in Nairobi for our first meeting, which took place on the 10th of April 2005. That was the first time I had met any of my fellow “experts.” In fact, I’m pretty sure none of us had really known each other. There might have been some casual acquaintance on the part of some of the academics, but I knew none of them. We also met the members of the two sides. The purpose of the first meeting was for the five experts to listen to the arguments of the two sides, which we did, and then to draw up rules of procedure as to how we would carry out our work.

Q: Who chaired this?

A: I chaired. They wanted the American to be the chairman. It was quite apparent from the very beginning that the two sides were taking distinctly different positions and that they were not ready to compromise. I spoke to the leader of the Government’s delegation, Ambassador Dirdeiry. I said to him privately that it would make a lot of sense if the two sides could get together and work out a compromise for an equitable solution. He said flatly that there could be no compromise on a land issue. Later that day, Douglas Johnson and I met with Commander Deng Alor, who was the head of the SPLM delegation on the ABC. He agreed that there could be no compromise. Under the terms of the Protocol and the Annex to the Protocol, which both sides agreed to, if the two sides could not agree, the decision of the experts would be final and binding. That was restated in the rules of procedure which we drew up and which the two sides also signed.

Q: They agreed to that?

A: They agreed to it and that is the way they wanted it. One could speculate why the parties wanted to give the decision-making of this thorny issue over to outsiders. For one thing, it was quite clear that they could not solve it themselves. Beyond that, they may have decided that neither side wanted the onus of a decision that would be unfavorable to one or the other, so let the outsiders take that burden. It is also possible, more than possible actually, since both sides indicated to us that they were quite sure they had an ironclad case. So, they believed that however it came out, whatever the ABC decided, whatever the experts came up with, that outcome would be favorable to them. That, of course, was not what happened.

All fifteen members of the ABC flew to Khartoum and from there to the Abyei area. We flew to Kadugli first, where we boarded two Russian MiG-8 helicopters flown by Ukrainian pilots. We flew to Abyei Town and elsewhere in the course of the next week. In Abyei Town we met with Dinka representatives. From there we met for the most part with Misseriya in cattle camps to the northwest and northeast of Abyei Town. We also went to a village called Agok, south of the Abyei area, and listened to representatives of other tribes, neighbors of the Ngok Dinka -- the Rueng, the Twich, and the Rek. Then we

went to Muglad, which is well north of the Abyei area, in Western Kordofan, and talked to Misseriya representatives there. The gist of what we heard from the Ngok was that the Ngok had for years occupied permanent settlements both south of the Bahr el Arab River and north of it, and that they were the true occupants of the Abyei area. The Misseriya disputed that, saying that the Ngok, having been beset by enemies and seeking refuge, had been invited or welcomed by the Misseriya leaders in the early part of the twentieth century. The Ngok were therefore guests, and had no rights of occupancy. Moreover, the Misseriya had permanently occupied areas well to the south of the Bahr el Arab.

Now let me explain the importance of the Bahr el Arab. It is the major stream in that particular area and runs roughly northwest to southeast. It figures in the arguments of both sides. The Ngok said that they occupied areas north of the Bahr el Arab, and the Misseriya said that the Ngok did not and that they, the Misseriya, occupied areas south of that river. The Bahr el Arab runs very close to Abyei Town, which is the largest settlement in the Abyei area.

Because the positions of the two sides were almost identical to that of the Government on the one hand, and the SPLM on the other hand, and because the wording used by many of the people who were interviewed was so similar, it was apparent to us that they had been coached and that the testimony, while of some use, was essentially worthless in terms of our making a decision. It was clear, then, that we would have to do archival work and study the records, which would provide us a basis for making a decision that would hold up to scrutiny. From the South we flew back to Khartoum and from there we, the four experts, went to Nairobi, where we deliberated amongst ourselves. We talked to General Sumbeiywo, laid out our plans for doing more research, and made arrangements to have the testimony that we had heard transcribed and translated into English. Then the four of us went back to Khartoum; Shadrack Gutto had not yet been appointed. For the next couple of weeks or so we spent hours each day poring over records in the official archives of the Government of Sudan, the National Records Office. We also looked at maps in the Sudan National Survey Authority and other documents at the University of Khartoum. We found a lot of useful information. However, there was no map of the Abyei area as it existed in 1905, before then, or afterward. No map at all. Nor was there a definite account or any records that would lay out what the boundaries of the Abyei area were, either then or later. So we had to reconstruct what the boundaries logically would have been, based on the reports that we studied. Much of the information we looked over were records written by British colonial officials from before 1905 on into the latter part of the Condominium.

Let me interject here that, during our first meeting in Nairobi, Ambassador Dirdeiry had said that no material, documents or otherwise, before or after 1905, had any relevance, that we should confine ourselves to examining evidence that was available in 1905. We said that this was totally unsatisfactory. Douglas Johnson, in particular, said two things: one, that there was no way we could confine what we were doing to a particular year, certainly in the absence of any likelihood that an examination of just that one year would reveal everything. Second, he resented the Government's placing restrictions on our ability to conduct a thorough investigation. Ambassador Dirdeiry then backed down and

said it would be all right, of course, or words to that effect. The importance of this was soon borne out, for as I have mentioned, there was nothing available in 1905 that enabled us to make a decision. We were particularly intent on seeing material that would lend credibility to a proposition that the situation in, say, 1905, 1910, 1920, 1930, etc, was essentially unchanged with respect to occupancy of the territory.

From Khartoum we went back to Nairobi. There we met Shadrack Gutto, who now was on board. We briefed him, discussed with General Sumbeiywo what we had done, and made administrative arrangements with IGAD. Then three of us, Godfrey Muriuki, Douglas Johnson and I, flew to the UK. Shadrack Gutto went back to South Africa, where he was going to do work on land usage. Kassahun Berhanu went to Addis Ababa to follow up on a couple of leads we had. In the UK, the three of us went first to Oxford University, where we studied the Sudan holdings in the Bodleian Library and in Rhodes House. Then we proceeded to Durham. But just before going to Durham, we went to Sussex, where we interviewed Michael Tibbs, who was the last British district officer for Dar Misseriya. We also went to Hull to talk with Ian Cunnison, a British anthropologist who lived with the Misseriya in the early 1950's and wrote a seminal work on them called *The Baggara Arabs*. After we saw him, we proceeded to the University of Durham, where we looked at documents in their Sudan holdings. Returning to Oxford, we worked for a couple of days and then dispersed. By then it was June, and we met later that month in Nairobi.

Q: This was what year?

A: This was 2005.

Q: This is after the Peace Agreement?

A: Yes. The Peace Agreement was in January. We first met in April and we worked together in April, May, June, and on into July. In mid-June, the five of us went back to Nairobi to meet again with the other ten members of the Commission. Our purpose was to hear their final arguments, which we did. The presentations by the Government and the SPLM were essentially unchanged from their earlier arguments. We then went over the evidence that we had gathered, finished writing our conclusions, and made our decision, on June 20. The decision was unanimous. We had no doubt that we had done the right thing. We knew that the decision would not sit well with one party, but we had no choice. We were determined to make a decision based on historical and sociological evidence, scientifically arrived at. We succeeded in this task. We also took an oath of secrecy because we had indications that if our decision leaked before we gave it to the Sudanese Presidency, it could cause serious problems, including violence, in the Abyei area and perhaps elsewhere. When we reported this to General Sumbeiywo, he fully understood. And so none of us revealed what we had decided to any person or organization, including our respective governments.

We convened in July, to meet with the Presidency on the 14th and present our decision. When I say the Presidency, I'm talking about the new Presidency of the Government of National Unity. The Presidency was sworn in on the 9th of July at a large ceremony in

Khartoum, with Omar al-Bashir remaining as President, John Garang becoming the country's First Vice President, and Ali Osman Taha becoming the Second Vice President. Five days later, in what was really their first important work as a unified Presidency, they met with us. We met in the presidential palace, in a very large, formal room, sitting in ornate chairs in a U-shaped arrangement. The bottom of the U was occupied by the three principals, with the 15 of us members of the ABC on both sides of the U. We five experts each read a part of our summary report, and then I finished by reading the decision.

We had examined all of the proposals, or positions, put forward by the two parties and we labeled these as propositions. We read the propositions and gave the Presidency our conclusion on each of them. On most, we did not find any supporting evidence. For example, the Ngok Dinka had said that their territory originally extended to El Odaiya, which is well up in the north, and that the boundary between the Ngok and the Misseriya should run from Lake Keilak to Muglad, which is the center of Dar Misseriya. We found nothing to support that proposition and rejected it. On the other side of the extremes, the Misseriya said their territory originally extended south of the Bahr el Arab as far as the current Kordofan-Bahr el Ghazal border. That's well to the south of the Abyei area. This proposition also had no evidence to support it, so we rejected it. By the time we had gone through all the propositions, we had adumbrated, if not spelled out, what our decision was going to be, because it was evident that one or two of the propositions were well founded.

We concluded that the Ngok Dinka had a legitimate claim to occupancy of the area north of the Bahr el Arab up to the Ngol River, which is called the Raqaba ez-Zarqa in Arabic. Incidentally, the Bahr el Arab is called by the Dinka the "Kir River." I'll refer to the two rivers as the Bahr el Arab and the Ngol. We found that the Ngok had permanent settlements well north of the Bahr el Arab. On the other hand, the Misseriya did not; they were a nomadic people. So, too, were the Ngok, but the Ngok did have permanent settlements, whereas the Misseriya did not. We concluded that there was no clearly demarcated boundary of the area that was transferred from Bahr el Ghazal to Kordofan in 1905. We noted that the belief of the Government of Sudan that the area of the nine Ngok Dinka chiefdoms lay entirely south of the Bahr el Arab was mistaken, based largely and for understandable reasons on a report by a British official who had come down from the north in Kordofan on a trip to the south into what is now known as the Abyei area. The British official incorrectly concluded that he had reached the Bahr el Arab and began to encounter Dinka only after he had reached that river. In fact, as we found in our studies, he had actually only reached the Ngol River. So, the claim of the Government that the Ngok Dinka never really resided north of the Bahr el Arab was incorrect. There was compelling evidence supporting the Ngok claim to have dominant rights, meaning permanent occupancy, to the areas along the two rivers and that this predated as well as postdated 1905.

There were other conclusions in our report. But the decision, which, as provided by the Agreement signed by the two parties, was to be final and binding, was that the Ngok have a legitimate, "dominant," or permanent, claim to the territory from the Kordofan-Bahr el

Ghazal boundary north to latitude 10 degrees 10 minutes north. This is just above the Ngol River, stretching from the western boundary with Darfur to the eastern boundary with Upper Nile, as these western and eastern boundaries were in 1956. North of latitude 10 degrees 10 minutes north through an area called the Goz, the Ngok and Misseriya share isolated occupation and use rights, which are “secondary,” or seasonal, rights, dating from the Condominium period. Because this is an area of shared secondary rights, both the Ngok and Misseriya can graze their cattle there.

The Goz is a north-south band that runs roughly west to east, well north of latitude 10 degrees 10 minutes north. The Goz is a very poor grazing ground, and neither the Ngok nor the Misseriya really stay there. They just pass through it while moving their cattle. The two parties lay equal claim to the shared areas. Accordingly, we found that it was reasonable and equitable to divide this Goz area between them. We located the northern boundary on a straight line at approximately latitude 10 degrees 22 minutes 30 seconds north, leaving the western and southern boundaries the same as they were in 1956. The eastern boundary was slightly modified.

The last part of our decision was that the northern and eastern boundaries would be identified and demarcated by a survey team. We spelled out who should be on that team and so forth. Finally we noted that the Ngok and the Misseriya would retain their established secondary rights to the use of land north and south of this boundary.

It was obvious that, as I was reading the decision, President Bashir was not happy with it. This indeed proved to be the case. After we had released our decision and left Khartoum, the Misseriya strongly rejected it, and President Bashir followed suit later on. He did not accept our decision, even though the two sides had formally agreed that it would be final and binding. Later, Northern officials and others in the Northern establishment claimed that we had exceeded our mandate. Their rejection was presumably based on Dirdeiry’s reasoning earlier that nothing that happened before or after the 1905 transfer of authority would be relevant, which is a bit odd because the Northern case itself included information based on documentation that was written after 1905.

So, that is where it stood and essentially that is where it stands now.

In January 2006 I wrote to President Bashir explaining how we had arrived at the decision, even though that had been fully related in our formal presentation. I also expressed my strong belief in the impartiality of the five members of our group and, among other things, reminded him of the work I had done to improve relations between our two countries since I left Sudan. Bashir did not reply.

Both Douglas Johnson and I have written pieces for a Sudanese English-language newspaper, laying out the essential elements of what we had done, why we had done it and why it was a valid and just decision. The newspaper, the Sudan Tribune, published the letters, and they were reprinted in Arabic language newspapers. Our reasoning notwithstanding, the Northern establishment, that is, the National Congress Party and its leadership, holds to their rejection of our decision. On the other hand, the Sudan Peoples

Liberation Movement, the SPLM, insists that our decision was final and binding and must be implemented.

John Garang told us, after we had made our decision, that it would be implemented. We met with him in his hotel suite in the Khartoum Hilton on the night of the 14th, after we had presented our findings. He was expansive that night, in a better mood than I had ever seen him in before, and I had met with him a number of times over the years. He was, he said, confident about the future of democracy in Sudan. He said democracy had taken hold in Sudan and could not be uprooted. He related to us his own thoughts about where the newly installed Government would be going and what role it would play in, for example, Darfur.

I might mention that, at a press conference after we stepped outside of the Palace conference room earlier that day, I read our decision. I talked about how we had come to it and how it would have no direct practical effect on the people of the area. Ambassador Dirdeiry spoke and said that the decision would merely be studied. The media -- which that day included only Sudanese government press, radio and TV reporters -- carried Dirdeiry's statement, but not mine. When I pointed this out to Dr. Garang, he said that what Dirdeiry had said was simply his opinion and that the decision would be implemented.

Not long thereafter, as you know, Dr. John Garang died in a helicopter crash, and this caused a lot of turmoil and a belief by many Southerners that he had been assassinated. But the turmoil passed when it became evident that it had been a tragic accident. Salva Kiir, the Vice President of the SPLM who succeeded Garang, has held to Garang's position that the ABC decision is final and binding and has to be implemented. He has stated this publicly, and also privately to Bush administration officials.

The Abyei business is potentially very volatile, in that the Misseriya have said that they will fight if the decision is implemented. Salva Kiir hasn't been quite that direct, but he has said that if the decision is not implemented, it could result in serious conflict. Omar al-Bashir and Salva Kiir have met more than once, but they have not gotten anywhere at all in reaching an agreement on what should be done. There are various ideas floating around. One is that there should be some kind of impartial Sudanese commission created to examine the report and make its own decision. There has been a suggestion that the ABC experts or the whole Commission should be reconvened. I'm not quite clear what the purpose of that would be. Perhaps for us to explain how we reached our decision, which seems to me would be a waste of time, since the decision is spelled out quite clearly and in detail in the decision and the supporting documents that we produced.

I had thought that there would be opposition from the Misseriya once we announced our decision, for the decision was quite clearly against their wishes. Nevertheless, given the importance of the Comprehensive Peace Agreement to the country as a whole, I also thought that the North's refusal to accept our decision would give way in time. That hasn't happened. What lies ahead is anybody's guess.

For now, the decision makes no difference. There is a lot of oil in Abyei, much of it untapped. But, under the terms of the Protocol, any revenues from oil produced in Abyei will be divided along a formula: 50 per cent to the National Government, 42 per cent to the Government of Southern Sudan, two per cent to Western Kordofan, two per cent to Bahr el Ghazal, two per cent to the Ngok, and two per cent to the Misseriya. So, regardless of what happens in the immediate future, the formula ensures that whoever might have right of occupancy has only limited access to the oil. That is, the oil is going to be divided according to the formula that was agreed upon.

Q: That's a separate protocol from the Abyei Commission work?

A: Not a separate protocol, another part of the Abyei Protocol, which established the ABC.

Q: This is on the oil sharing?

A: Yes, oil sharing, along with provisions for how Abyei will be administered during the interim period until the referendum of 2011. As provided by the CPA, after the end of six years from the implementation of the Peace Agreement, which took place with the establishment of the new Presidency in July of 2005, there will be a referendum for Southerners to decide whether they will become independent or whether they will continue to have a special administrative status in the united Sudan. That is in the CPA itself. The Abyei Protocol contains a provision stating that, regardless of how the overall referendum goes, the people of the Abyei area will have their own referendum to decide whether they will stay as part of a united Sudan, with their special administrative status, or whether they will join with Bahr el Ghazal. If the South as a whole has decided to become independent and if at the same time the people of Abyei decide that they are to become part of Bahr el Ghazal, that is, part of the new country, then the northern boundary that the Commission has defined will be an international boundary. That takes on considerable significance when you look at the question of oil, for oil in the Abyei area would then be under the jurisdiction of the government of the new country.

Q: So it would have important implications there if it is accepted.

A: Right, if the ABC's decision is accepted and if those two conditions apply after the referendum.

Q: How do you think the Abyei process as such contributed to movement towards a CPA agreement?

A: It was essential that there be some kind of an Abyei process, because without an agreement of the kind that was made on the Protocol, there could have been no CPA overall.

Q: So even though it did not come to a final conclusion, the process was critical?

A: Yes. The process and the provision that the ABC decision would be final and binding seemed to be critical because they indicated that, in the interest of furthering continuance of peace between the North-South, the side not favored by the decision would agree to it nevertheless.

Q: And this was largely a U.S. initiative?

A: The Protocol itself was. The proposal was written by the staff of Senator Danforth, Ambassador Danforth. In fact, at the first meeting we had, Dirdeiry referred to the genius of the Americans in coming up with this proposal, which was a bit curious. I believe he said this because he was sure that it ensured that his side would win, that the decision would be found in their favor. This must have stemmed from his belief that in 1905 a piece of evidence existed proving that the Dinka resided south of the Bahr el Arab. This would have been the trip report that I have cited. On the face of it, when I first read the report at the National Records Office in Khartoum, I said to myself, "Well, that's it." But then my colleagues and I went over each step of the itinerary laid out by this the British official, Major E.B. Wilkinson. Wilkinson recorded how many miles he and his party had gone each day and where they were. We saw that the river he came to and labeled the Bahr el Arab was in fact the Ngol River, some 28 miles north of the Bahr el Arab. Wilkinson thought that he had reached it, but he had only reached the Ngol River on that day. And this totally refuted the essential element of the Government's case.

Q: So that is still up in the air, but the process has been significant.

A: I have no idea how it is going to come out at this point.

Q: You've emphasized the role of the Abyei Commission as being critical but looking at the whole CPA process, are there any sort of lessons of what should have been done or not done or what worked?

A: Well, looking back now, I think it was a very well-crafted, meticulously drawn agreement.

Q: The CPA?

A: The CPA and the Protocol that went with it. If both sides were willing to fully support, adhere to and foster them, that would do the trick. But unfortunately that is not happening. Instead of a reduction of the antagonism and the doubts that Southerners feel about the North, what we have now is added distrust by Southerners, because things are not going the way they hoped they would go. With Southerners having a deep and abiding animosity toward, and distrust of, the North, the conclusion one can draw right now is that the 2011 referendum is not going to favor a unified Sudan. Certainly if the people of the South voted today, they would vote for independence.

Not all Southerners feel this way. As John Garang told us that night, on the 14th of July, a separate Southern Sudan would make no sense. He said Arab Governments would

oppose it. Hardly any African Government would support it. And the promise of large amounts of international aid, so vital to the future of the South, would evaporate. So he was going to do all he could to make the CPA work. And, given his leadership qualities, his charisma, his ability to work with Ali Osman Taha as well as others, he could have made a difference, and there might be a situation unlike that which exists now. This doesn't take anything away from Salva Kiir, who continues to insist that the CPA and the Abyei decision must be implemented properly and fully. But Dr. John was sort of bigger than life, and he could have had a greater impact on the way the CPA and the Protocol have been implemented.

Q: And now the Darfur situation is complicating it all?

A: Yes. For a time, the Darfur situation held up approval of the CPA itself. One of the expected outcomes of the CPA after it came into being was that the South would play an important role in the negotiations between the Government and Darfur, and that a solid peace agreement for Darfur would be much more possible under that circumstance. That has not turned out to be the case, unfortunately. As a result, Darfur is still a mess and violence is increasing lately rather than decreasing. Furthermore, the Government has refused to agree to the idea, much less the actuality, of a UN force to replace or augment the African Union force in Darfur to keep the peace.

Q: Is there anything new or additional that the international community can do to try to press for implementation and so on?

A: I would think so, but only if implementing the CPA takes on a great amount of importance in the eyes of the international community, the kind of importance it had before Darfur became such a problem. The current situations in the Middle East, in Iraq and Lebanon, Israel, and so forth, have taken away from Sudan the focus and the diplomatic resources of countries that might make a difference. Sudan has a lower priority these days. However, I think that despite the absence of a renewed determined and strong effort by the United States, in particular, and other countries as well, the chances are that the Comprehensive Peace Agreement will hold. But if implementation continues on the problematic course it has taken, it will not give rise to the conditions that would cause Southerners to decide to stay in a united Sudan.

Q: Are there any special initiatives that would be appropriate, if there were a will to do it?

A: Well, there is nothing underway that I am aware of. What might work? Well, that would take some thought, some study, but something along the lines of another international mediation, with a lot of determination behind it, and with the resources that would be necessary.

Q: Has IGAD sort of done its business?

A: Pretty much so, for now.

Q: They couldn't be revived or anything?

A: I do not know if getting IGAD back together as a functioning, effective organization for this purpose would be possible. For one thing, General Sumbeiywo is no longer with IGAD. An international effort would have to have a significant African involvement, but nobody that I am aware of is thinking along these lines. For now, the situation is a bit bleak.

Q: Well, looking back over, is there anything that we did not touch on or you thought about what might be lessons from this whole experience that you have been through?

A: I believe, as I might have indicated, the Comprehensive Peace Agreement and its Abyei Protocol were notable diplomatic achievements, but the ground for growing a true peace out of the CPA was not as fertile as we thought it was for that kind of growth. But we shall see.