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Gene Carolan

*Technological University Dublin, gene.carolan@tudublin.ie*

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## **Statebuilding in the Peace Agreements of Sudan and South Sudan**

Dr Gene Carolan

*School of Law, Languages and Social Sciences, Technological University Dublin, Ireland*

gene.carolan@TUDublin.ie

Twitter: @GeneCarolan

LinkedIn: <https://www.linkedin.com/in/genecarolan>

Dr. Gene Carolan is a Lecturer in Law at Technological University Dublin. His research interests lie in peace agreement design, transitional justice mechanisms, and conflict analysis.

Dr. Carolan was previously the National University of Ireland's Edward J Phelan Fellow in International Law. He holds a Certificate in Mediation from the European Security and Defence College, and has previously presented aspects of this research to civilian and military personnel engaged with the EU's Common Security and Defence Policy.

# **Statebuilding in the Peace Agreements of Sudan and South Sudan**

This paper presents a retrospective analysis of the principal peace agreements to emanate from the North–South conflict in Sudan and the civil war in South Sudan. In doing so, it argues that statebuilding practices dating back to the inception of the Sudanese state continue to inform and undermine contemporary efforts to resolve the conflicts in both countries. The paper makes a unique contribution by linking the legacy of peace agreements in Sudan and South Sudan to the crises of governance that plague both countries today. In doing so, it seeks to further the discussion on statebuilding as part of a broader strategy of sustainable peacebuilding and transitional justice.

Keywords: peace agreements; peacebuilding; transition; Sudan;

[T]he Sudan has been looking for its soul, for its true identity. Failing to find it..., some take refuge in Arabism, and failing in this, they find refuge in Islam as a uniting factor. Others... take refuge in separation.<sup>i</sup>

[T]here is nothing in common between the various sections of the community; no body of shared belief, and above all, the Sudan has failed to compose a single community.<sup>ii</sup>

## **I. Introduction**

From its independence and period as the single largest state in Africa, through its division in 2011 into two separate nations made up of distinct majority and minority ethnic groups, conflict has been the norm rather than the exception in Sudan. This history of conflict predates Sudanese independence, and was arguably woven into the fabric of the nascent Sudanese state. As a pawn in the political manoeuvres of colonial Britain and Egypt, Sudan was administered as two separate regions, ‘with political power and control of the country’s extensive natural resources, as well as decisions over education, policy, language and cultural identity, centered in the north’ (Connell 2003, 3). This legacy of heavily centralized government was maintained by post-independent regimes in Khartoum. Faced with ‘glaring inequalities’ in economic opportunity

and political parity (Connell 2003, 3), the South took up arms against the central state, initially as a myriad coalition of tribes and later, as the Sudan People's Liberation Movement/Army (SPLM/A). The resulting intrastate conflicts—particularly the First Civil War (1956-72) and the Second (1983-2005)—caused the deaths of some 3.6 million people (Natsios 2012, 78; Poggo 2011, 192).

The Second Civil War was officially resolved with the conclusion of the Comprehensive Peace Agreement (CPA) in 2005. The agreement reframed Sudan as a multi-ethnic and multi-religious republic, and provided for a referendum on southern self-determination which culminated with South Sudan's independence in July 2011. However, conflict continues to plague the region, and the failures of statebuilding remain evident. The central government's refusal to admit other marginalized constituencies to the centre has bred insurgency in Darfur, East Sudan, and on Sudan's southern border with an independent South Sudan. Today, the Republic of Sudan lacks effective control over parts of Blue Nile, South Kordofan, and Darfur. South Sudan, too, has struggled to assert its sovereignty, leading some scholars to question whether its independence was premature (Rolandsen 2015; Wassara 2015). The country's fall from newly liberated grace into ethnically-charged conflict is indicative of the failure to build an inclusive state under the terms of the CPA (Ylönen 2016).

The peace agreements of Sudan and South Sudan reveal much about statebuilding practice in the region and how it has gone wrong. At their core, peace agreements are an exercise in statebuilding: they present an opportunity to reimagine the nature of the state itself, to renegotiate the relationship between state and society, and to restrain the use of state power. Such occasions for reflection presented themselves at key intervals in the Sudanese conflicts, where peace agreements prescribed a variety of mechanisms aimed at reconstituting the state. Some agreements even recycled provisions from previous agreements—on autonomy, power sharing and the redistribution of wealth—despite inefficiency in the past.

This paper presents a retrospective analysis of those agreements. In doing so, it reveals how statebuilding practices dating back to the inception of the Sudanese state were repeatedly prescribed in agreements aimed at resolving the conflict, and are continuing to manifest in contemporary efforts to resolve the conflicts in the region. The paper begins by conceptualising the institutional and normative change prescribed by peace agreements as an exercise in statebuilding. It then proceeds to analyse the principal peace agreements to emanate from the North–South conflict, as well as the 2018 Revitalised Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS). The paper argues that the R-ARCSS has not incorporated the lessons learned from Sudan's troubled history of building an inclusive state, despite the agreement's rhetorical commitment ‘not to repeat the mistakes of the past’ (R-ARCSS, 2018).

Scholarship has tended to examine Sudan's peace agreements in isolation, or through specific lenses such as power-sharing (Zambakari 2013), inclusivity (Brosché and Duursma 2018; Aldehaib 2010; Itto 2006; Sabala 2017), or realism (Rolandsen 2011). Kalpakian's (2017) retrospective analysis of Sudan's peace agreements linked the failure to address root causes in successive peace agreements to the recurring cycles of violence in the region. However, the statebuilding practices that peace agreements in the Sudan routinely prescribe have not been subject to the same level of scholarly inquiry. This paper thus makes a unique contribution by linking the legacy of peace agreements in Sudan and South Sudan to the statebuilding practices that have brought about the crises of governance in both countries today. In doing so, it seeks to clarify the relationship between statebuilding practices and peacebuilding interventions, and the trajectories of violence that can result (McAuliffe 2017; Hameiri 2014).

The North–South conflict in Sudan ‘was just one part of a broader web of conflicts involving competing claims... to land, water, natural resources, political power or cultural identity’ (Simmons and Dixon 2006, 6). Indeed, the ongoing conflicts in South Kordofan, Blue

Nile, and South Sudan share many of their root causes with those of the broader North–South conflict, including ‘religion, race, resource distribution, and political marginalisation’ (International Crisis Group 2003, 2). Nevertheless, this paper adopts the peace agreements emanating from the North–South conflict as its primary focus. This reflects the ‘piecemeal regional approach’ taken to peace-making by Khartoum, which prevented the myriad rebel groups from mounting a significant challenge to Khartoum’s privileged position at the centre (Hottinger 2006, 47; Matus 2006). Furthermore, the North–South peace process spanned 40 years, thus creating the longest paper trail of conflict resolution instruments in Sudan. Following its conclusion, the CPA became the legal standard to which other rebel groups aspired (Hottinger 2006), and its legacy is still keenly felt in both Sudan and South Sudan as the analysis of the R-ARCSS below demonstrates. A retrospective analysis of the North–South peace process duly reveals how peace agreements are applying the same statebuilding practices that failed in Sudan to contemporary South Sudan.

## **II. Peace Agreement Design as Statecraft**

Statebuilding is the process through which local actors acquire power and establish control, often through coercive authority. The state and its apparatus serve as a means of centralizing power; checking and balancing its legitimate uses; and laying claim to territory (Richmond 2013). The sovereign state is expected to be capable of exercising autonomy in its own internal and external affairs; maintaining its internal security; and policing its borders. While exercising sovereign control may provide external legitimacy, it does not ensure the sovereign’s internal legitimacy. In order to fulfil the basic functions associated with sovereignty, such as representation and taxation, the state must mobilise the collective agency of its population (Richmond 2013, 302). Accordingly, the state negotiates its hegemonic power with the other actors who are capable of promoting societal consensus (Richmond 2013, 299). What ideally emerges is a social contract based on mutual rights and obligations, rather than the coercive

power of the state alone. The contemporary nation has duly been analysed in terms of its capacity to guarantee security, law, rights, and limited public services.

However, negotiating this contract will depend on ‘power relations, norms, interests, material capacities, culture and identities’ in the state concerned (Richmond 2013, 303). In the Western model, social actors may recognise the state’s authority to levy taxes in return for the provision of public services and welfare. The post-colonial state, however, often manifests as an illiberal social contract, where state resources are used to fund patronage networks that maintain elite power (Richmond 2013). This is particularly true of Sudan and South Sudan, where the social contract has repeatedly failed to deliver on basic services and security (de Waal 2019; 2016; Kuol 2019). Structures of power within the state will thus impact the negotiation of the social contract, which will in turn determine how the state will function: ‘to entrench power or to ameliorate it; to remedy or maintain inequalities; and to produce either a negative or positive form of peace’ (Richmond 2013, 300).

Accordingly, statebuilding practices have become the focus of peacebuilding interventions and peace agreements. Most contemporary peacebuilding interventions are premised on the assumption that strengthening state capacity improves the long-term chances of peace (de Coning 2016; Ylönen 2016; Secretary-General’s Advisory Group of Experts 2015; Paris and Sisk 2009; Ghani and Lockhart 2007). Where the state apparatus is itself constitutive of conflict, processes of peacebuilding and statebuilding attempt to develop a liberal social contract to replace the predatory state that preceded it (Richmond 2013). The goal of both peacebuilding and statebuilding strategies is thus to negotiate a political infrastructure that can accommodate a variety of stakeholders and constituents (Bell 2017; Ghani and Lockhart 2007).

Some scholars have duly conceptualised statebuilding practices as a vehicle for the delivery of the liberal peace (Hameiri 2014; Richmond 2013). Indeed, the statebuilding practices prescribed by peace agreements suggest a gradual morphing of peacebuilding and

statebuilding practices over time (McAuliffe 2017; Hameiri 2014). McAuliffe describes statebuilding as the ‘meta-project’ of the peace agreement: ‘a totalizing enterprise’ that touches upon most aspects of legal, political, and administrative life (2017, 248). Peace agreements employ the language of human rights, justice, and the rule of law to prescribe ‘new rules’ on state formation processes (Ghani and Lockhart 2007, 283–84; Lekha Sriram 2007). These new rules manifest in peacebuilding mechanisms such as autonomy and wealth and power sharing, which serve to transition the state from a concept of legitimacy that depends on sovereignty to one that is dependent ‘on the ability of the state to deliver pluralistic participation and equality, regardless of identity or political allegiance’ (Bell 2008, 114–15). Ghani and Lockhart categorize the statebuilding practices commonly prescribed by peace agreements under four dominant strategies: the establishment of new political rules, the creation of a legitimate centre, the decentralization of power, and the quest for an inclusive state (Ghani and Lockhart 2007). This paper utilizes these categories to evaluate the attempts to redefine the Sudanese and South Sudanese states under various peace agreements.

The negotiations that culminate with a peace agreement present a ‘window of opportunity’ to reflect on the nature of the state and its obligations to its citizens (O’Reilly 2016): to renegotiate the social contract between individuals and the state, and the horizontal contract between different groups of individuals in the wake of violence (Bell 2008, 150). A well designed peace agreement will provide opportunities for societal stakeholders to negotiate the new social contract; to develop ‘shared principles of justice, assimilation, and consensus’ in the post-conflict state (Hoffman and Bercovitch 2011, 404). A ‘systematic and participatory process’ of consultation can lend a sense of domestic ownership to peacebuilding interventions, and ensure that the intervention is tailored to its particular context (Papagianni 2009; Chandler 2005; Ghani and Lockhart 2007, 279). Peace agreements often provide for broadly constitutive processes of constitutional and legislative revision, particularly where the foundational



instruments of the state were implicated in the root causes of a conflict (Campbell, Ni Aolain, and Harvey 2003). In some cases, the text of a peace agreement may itself serve as an interim constitution. As in statebuilding processes, the quest for an inclusive state in post-conflict contexts manifests itself in legal instruments that are tied to—or that comprise—the state itself.

However, post-conflict constitutions differ substantially from their peacetime counterparts. In peacetime, constitutions provide the legal foundation of the state, distributing power and codifying the values and ethos of the state (Bell 2008). In the aftermath of civil war, these issues remain contested. The peace agreement cannot duly serve as a permanent prescriptive document, but must function instead as a transitional vehicle for the resolution of these issues over time. As a result, peace agreements often invoke provisions on self-determination, shared values, and social justice to bind belligerents to a common purpose and provide a normative direction for the holistic development of the ensuing peace process (Bell 2006; Ghani and Lockhart 2007). Words thus carry enormous weight in these agreements, owing to their interpretive value as regards, *inter alia*, the normative direction of the peace process, the framing of the ‘meta-conflict’ at the heart of the dispute, and the battle for the transition itself (Bell 2017; Ghani and Lockhart 2007; McGarry and O’Leary 1995). Indeed, peace agreements are not only a means of legitimating post-conflict legal and political structures; they are often a unique end in themselves. Some combatants fight solely for the cultural and political recognition that peace agreements provide, and it is important that their ‘performative potential’ as instruments of statebuilding be taken seriously (Bell 2008, 150).

Despite the centrality of peace agreement provisions to post-conflict statebuilding, the texts of such agreements have not been scrutinized as exercises in statecraft. In fact, the equivalence of statebuilding and peacebuilding has been criticised from practitioners and scholars in the field of transitional justice (Sharp 2014), and the literature on statebuilding and peacebuilding—despite significant overlap—remains ideologically distinct. As a result, there

have been few efforts to chart the causative link between the conceptualisation of the state and the prescription of the state apparatus under peace agreements, and the polities that result (S. L. Woodward 2007; Ghani and Lockhart 2007). This link demands scholarly inquiry given the ‘privileged place’ of words in peace agreements, and their role in shaping potential trajectories of violence (Srinivasan 2013, 24). Toft has previously found that civil wars that reignite after a peace agreement (as in Sudan) are roughly 50 percent more deadly, and outweigh the costs of continued warfare in terms of deaths and destruction of infrastructure (Toft 2010).

A significant cause of conflict recurrence is the failure to tailor peace agreements to their particular contexts (Hampson 1996; Schneider 2006; Hoffman and Bercovitch 2011). This is often evident where agreements neglect key questions about the relationship between state and society, between church and state, and between ethnic groups; the distribution of power and wealth; and the ownership of land and natural resources. Indeed, McAuliffe has warned that the tendency to challenge structures of power in the open moment of a peace agreement is itself fueled by ‘an under-analysed assumption that transition amounts to a transformative constitutional moment where the distribution of poverty and wealth, land reform and the economy may be publicly addressed’ (McAuliffe 2017, 250). Such tendencies may be ill-suited to post-conflict societies that are unprepared for rapid liberalization: the literature is replete with accounts of the destabilizing effects that transformative practices may unleash where statebuilding and peacebuilding interventions are driven by normative impulse rather than contextual appraisal (Chandler 2007; Paris 1997; Sharp 2014). This paper demonstrates how the historical, political, legal, and economic contexts have been repeatedly neglected in the attempts to redefine the Sudanese state through peace agreements (Kalpakian 2017). What have resulted are social and legal contracts that neither reflect their societies nor serve the pursuit of sustainable peace.

### **III. Statebuilding and Peacemaking in Sudan**

Even prior to the negotiations that culminated with the CPA, commentators noted that confronting the root causes of the civil war would necessitate a radical reframing of Sudanese society (Connell 2003; Ali and Matthews 1999b). The state's reluctance to confront contested ideas of state and society can be readily observed in the peace process, which has time and again neglected issues such as race, religion, power, and wealth. The central government in Khartoum has traditionally dominated these issues and has been reluctant to engage in inclusive statebuilding practices aimed at reconstituting the centre or decentralising power, as per Ghani and Lockhart (2007). This provides one explanation as to 'why many peace agreements have been dishonoured or not sustained' (L. B. Deng 2005, 245). This pattern of systematic dominance has since re-emerged in South Sudan. Kuol concludes that the 2015 Agreement on the Resolution of the Conflict in South Sudan (ARCSS) presented an opportunity to forge a new social contract for the South Sudanese state, had it not been corrupted by the political elites charged with implementing it (Kuol 2019).

The debate on the causes of Sudan's civil wars is—much like the Sudanese conflicts themselves—'divisive and far from settled' (L. B. Deng 2005, 245). The effects of religious differences, economic exploitation, and colonial intervention have all played their part in fuelling the conflict, 'but none, by itself, fully explains it' (Douglas H. Johnson 2007, 1–2; in Aldehaib 2010, 3). The origins of the modern Sudanese state can be traced to the colonial rule of Ottoman-Turkish Egypt and Britain. Both colonial powers attempted to amalgamate the Islamic Sultanates and merchant kingdoms along the Nile River with the hundreds of Arab and African tribes that populated the rest of Sudan (el-Battahani 2006, 11). Egypt was the first to do so, having conquered Sudan by 1821. A lasting legacy of this period of Egyptian rule was the development of the Nile valley, much to the detriment of the other areas (Natsios 2012, 18). Crucially, the Egyptian conquest failed to consolidate control over the southern part of the

country and its peripheries. What emerged in lieu of effective governance in these regions was ‘a pattern of economic exploitation’ (el-Battahani 2006, 11): the south was generally seen as ‘a resource to be exploited rather than a region to be developed’ (Natsios 2012, 18).<sup>iii</sup>. Thus, even a century before an independent Sudan, a clearly unequal pattern of development and exploitation had been established.

The Anglo-Egyptian Treaty of 1899 ushered in a period of joint Anglo-Egyptian rule. While the British did make permanent and lasting contributions to the creation of a modern Sudan during this time, most, if not all of its development projects were focused on the Nile River valley. The ‘discontinuities of 19<sup>th</sup> century development’ thus accelerated under Anglo-Egyptian rule, and the disparity between the centre and the periphery grew even more extreme (Natsios 2012, 27). On the eve of independence, Sudan existed as two wholly different economic systems: one ‘was relatively well developed and the other was one of the least developed parts of the British global empire’ (Natsios 2012, 27).

Following the conclusion of the First World War, the question of Sudan’s independence began to gain traction. Sudanese nationalism was dominated by an educated, northern Arab–Islamic elite whose vision rarely extended beyond the borders of its own political constituency and power base in ‘the golden triangle’ between the Blue and White Niles. In the eyes of this elite, the south was considered ‘an afterthought, an appendage, and a marginalized section of society’ (Sikainga 1993; in Daly and Sikainga 1993, 81; in Ali and Matthews 1999b, 199). This northern elite dominated the nationalist agenda in the final days of colonial Sudan, paving the way for an Islamic state that did not reflect the needs and wants of its diverse society. Social unrest spread as the south began to worry about its place within a northern-dominated Sudan. The declining situation caused the British to accelerate their departure from the country, ‘since officials there still had responsibility with little corresponding control’ (Natsios 2012, 42). This resulted in the premature proclamation of the Republic of Sudan on 1 January 1956, though it

lacked the necessary political infrastructure and many of the features of statehood.

Following independence, the Arab–Islamic identity was employed as a central tenet of statebuilding, and aggressive policies of Arabization and Islamization followed in order to create an ethnically-distinct Islamic nation state in Sudan (Glickman 2000; Alier 1992).<sup>iv</sup> However, far from creating a homogenous Sudanese identity, these policies only served to alienate the groups that comprised Sudan’s ethnically and culturally diverse society. Indeed, the persistent practice of statebuilding through ‘marginal incorporation of the peripheries has been at the root of much of the political instability and armed conflict in Sudan since independence’ (Ylönen 2016, 217). El-Battahani (2006, 10) characterises the resulting conflicts as a contest between the centre and the periphery arising from ‘economic, resource-based, ethnic, cultural, religious and international’ concerns. Many of these issues have been exacerbated by the central government’s ‘crisis of legitimacy and its utility as a vehicle for economic exploitation’ throughout history (el-Battahani 2006, 10). The Addis Ababa Agreement of 1972 was the first peace agreement to attempt to advance an alternative conception of the Sudanese state.

### ***III. A. The Addis Ababa Agreement (1972)***

The Addis Ababa Agreement was heralded as ‘an African achievement’ that could inspire hope for the reconciliation of a broader African problem: the relationship of the Arab communities of northern Africa to the native population of the sub-Saharan (Ladouceur 1975, 406; Toynbee 1965). The agreement sought to establish “new rules” of the political game by guaranteeing cultural and religious freedom for minorities and prohibiting discrimination on the grounds of ‘race, tribal origin, religion, place of birth, or sex’ (‘Addis Ababa Agreement,’ 1972). The agreement thus reflected the secular, socialist, and pan-Arab ideals of Colonel Gaafar Nimeiry’s regime. While recognising Sudan as a secular republic may have theoretically resolved the issues underpinning the civil war, it would not be enough to reframe the

exploitative relationship between the Sudanese state and its myriad peoples. Functional institutions that could bridge the economic and political divide between the two Sudans would be required, and it is unclear whether the Addis Ababa Agreement delivered in this regard.

The Addis Ababa Agreement sought to assuage southern grievances within a framework that upheld the territorial integrity and constitutional order of Sudan. To this end, the agreement utilised decentralization as a means of statebuilding, creating a self-governing Southern Region with a regional assembly and a High Executive Council headed by a regional president. The region had legislative authority over, *inter alia*, regional finance, public health, and natural resources; though competences including education, policing, regional infrastructure, and land use remained subject to 'National Plans' ('Addis Ababa Agreement,' 1972). Contemporary accounts praised this arrangement as a compromise 'between unworkable federalism and disintegration on the one hand, and between centralism and repression of local and regional aspirations on the other' (Ladouceur 1975, 426). Nimiery himself ratified the agreement by executive decree on 3 March 1972, and by June of that year, southern citizens had complete control of the regional administration. A year later, the agreement was incorporated into Nimiery's secular and socialist constitution, which recognised Sudan as both Arab and African. By 1976, the agreement had firmly established 'the rules for post-war politics in the South and appeared to be gaining a permanent and functional role in the political system of Sudan' (Kasfir 1977, 143).

However, the modicum of democracy granted to the Southern Region upset the natural balance of Nimiery's otherwise authoritarian regime (Ali and Matthews 1999a). The southern regional assembly possessed many of the features of a liberal democratic government, and could petition the President to withdraw any bill that could adversely affect the welfare, interests or rights of the peoples of the Southern Region. The regional assembly duly exercised this power when Nimiery moved to take control of the south's abundant oilfields in 1983. Nimiery's

response was to simply divide the Southern Region into three weaker legislative bodies, thereby removing official opposition to his policy and abrogating the Addis Ababa Agreement entirely.

The collapse of the Addis Ababa Agreement was not readily observable upon its conclusion in 1972 (Kasfir 1977; Badal 1976). The agreement appeared to guarantee a democratic regional government with considerable autonomy that could exist in tandem with Nimeiry's initial vision for a secular Sudan. However, there is textual and structural evidence to suggest that the agreement was never intended as a national accord that would endure in the long run (F. Deng 1995). Though Nimeiry was eager to bring the civil war to an end, he had no intention of conceding central control 'over budgets, appointments, natural resources, policy, or military forces deployed in the South' (Natsios 2012, 57). The Addis Ababa Agreement duly limits southern autonomy in these key areas. Under the agreement, Nimeiry had the power to appoint and relieve any member of the regional executive including its president. Indeed, in the 11 year period of peace following the Addis Ababa Agreement, Nimeiry interfered in every election for president of the High Executive Council. Statebuilding through decentralization did not duly reflect the radical change that it espoused on paper: autonomy was merely employed as a vehicle to appease the South, 'while creating enough ties to bind the region into Sudan as a whole' (P. Woodward 1990, 143). The agreement's provisions on fiscal autonomy support Woodward's claim. Though the Southern Region could levy regional taxes, its tax base was so small that the region became dependent on subsidies from the national treasury (Ladouceur 1975; Beswick 1991). By 1976, the government had only delivered on a fraction of its obligations in this regard, and development projects remained centred in the North (Shinn 2004; Natsios 2012). As a project in statebuilding, the Addis Ababa Agreement thus did little to bridge the economic and political divide that separated centre and periphery in Nimeiry's Sudan.

The limitations imposed upon southern autonomy by the agreement's carefully constructed provisions left the agreement vulnerable to the political manipulation that

ultimately derailed it. Though the agreement secured an autonomous Southern Region within months of its conclusion, the southern polity was entirely dependent on Nimiery remaining in power and relying on the south for political support. By 1975, mounting opposition to Nimiery was already becoming a significant threat to the burgeoning peace process. Nimiery's secular constitution of 1973 did not sit well with the major Islamic political parties in the North, and his list of enemies grew longer with each passing year (Natsios 2012). In a bid to shore up his political position, Nimiery adopted an Arab–Islamic agenda at home and abroad which increasingly encroached upon the Southern Region's new-found autonomy. As soon as it became difficult to manoeuvre within the framework of the Addis Ababa process, Nimiery simply abrogated the entire agreement. With the reintroduction of Sharia law as the basis of the Sudanese legal system in September 1983, '[t]he final nail was driven in the coffin of the Addis Ababa Agreement' (Ali and Matthews 1999a, 209).

At first glance, the Addis Ababa Agreement appears to be a generous and legally compelling compromise. However, the unilateral control bestowed upon Nimiery reveals the agreement as an attempt to consolidate control, not an effort to resolve the conflict on mutually agreeable terms. The agreement failed to deliver on most of the statebuilding practices recognised by Ghani and Lockhart: it ceded little control from the centre, and failed to deliver new rules that could challenge the unequal structures of power that had borne civil war. Having neglected the prominent role that religion had played in Sudan up unto 1972, the agreement had no contingency plan for its returns as a valuable currency in Sudan's political marketplace. When Nimiery adopted an Arab–Islamic outlook in the mid-1970s, the unresolved antagonistic relationship between African and Arab Sudan resurfaced, revealing the Addis Ababa Agreement as a mere interval in the overarching conflict between North and South.

Given that the state's actual and perceived monopoly on violence is a useful measure of its legitimacy in post-conflict settings (Ghani and Lockhart 2007), it is surprising that the Addis



Ababa Agreement did not espouse a more concrete plan for the demobilisation and reintegration of ex-combatants. Under the agreement, the Sudanese Armed Forces (SAF) remained a unified military unit under the command of the central government, with a regional southern command comprised of 6,000 southern citizens and 6,000 men from outside the region. However, the agreement made no reference to the social rehabilitation, education or training of those who were not assimilated into the meagre vacancies offered by the regional force. Ex-combatants—neither demobilized nor reintegrated—roamed the Southern Region (Shinn 2004; Beswick 1991; Wakoson 1990), frustrated with the lack of progress achieved by the peace deal. Violent incidents followed in major southern cities, and crime rose to unprecedented highs (Beswick 1991). The social unrest culminated with the outbreak of the Second Civil War in 1983, and the emergence of a resurgent southern campaign under the banners of the SPLM/A.

### ***III. B. The Sudan Peace Agreement (1997)***

By 1990, the SPLM/A's military campaign had peaked, and internal dissent was fermenting over John Garang's highly centralized leadership. In August 1991, three senior commanders—Riek Machar, Lam Akol, and Gordon Kong—mounted an unsuccessful coup. However, the opportunistic government of Omar al-Bashir moved quickly to exploit the split in the southern movement. Seeking to co-opt Machar's political clout in the war against the SPLM/A, the Bashir regime initiated peace talks with the dissident SPLM/A officers. The talks kept the southern opposition divided, and produced the Sudan Peace Agreement—a one-sided settlement 'that achieved nothing positive for peacemaking in Sudan' (Barltrop 2010, 45).

The Sudan Agreement espoused a new national vision of Sudan as 'a multi-racial, multi-ethnic, multi-cultural and multi-religious society,' where 'freedom of religion, belief and worship shall be guaranteed,' and 'no citizen shall be coerced to embrace any faith or religion' ('Sudan Peace Agreement' 1997). Though Sharia was recognized as a source of law, the agreement bestowed rights and duties through citizenship rather than religion. The democratic

principles and human rights guarantees underpinning this vision of the Sudanese state were subsequently incorporated into the 1998 Constitution. The agreement sought further public participation in the political and constitutional processes of state through national consultative conferences. On paper, the agreement duly looked like a blueprint for a broadly constitutive secular state, featuring components of the each of the dominant statebuilding strategies identified by Ghani and Lockhart.

The agreement provided for a referendum on southern self-determination, following a four year interim period. During this interim period, south Sudan would be administered by a Coordinating Council with executive and legislative authority over, *inter alia*, regional security, foreign investment, and commercial development. In key areas such as federal budgeting, economic development, and education policy, the Coordinating Council's authority was curtailed 'in accordance with national policies.' The Coordinating Council retained many of the procedural powers granted to the High Executive Council under the Addis Ababa Agreement, including the right to adjourn any legislation tabled in the National Assembly if it adversely affected the interests of the southern states.

However, the central government still retained close control over the internal workings of the southern administration. Throughout the provisions establishing the Coordinating Council, ultimate control over the appointment and removal of *any* member of the southern administration is clearly vested in the President of the Republic. These restrictions legally limited southern autonomy in the same way that many of the Addis Ababa Agreement's provisions had done 25 years previously. When Riek Machar was elected President of the Coordinating Council, his nomination for governor of Unity state was blocked by the central government, which supported Paulino Matip, a dominant military leader in that region (Young 2003). When Matip broke with Riek's leadership in 1998, it weakened Riek's already tentative hold over the southern states. Machar resigned from his position as President of the

Coordinating Council in December 1999 and withdrew his support for the Sudan Peace Agreement, throwing the south into open conflict once more.

The Coordinating Council's ability to pursue its greater political and economic aspirations was inhibited by the Sudan Agreement from the outset. Despite its appearances as a legislative act devolving power to an autonomous southern government, the agreement had actually bound the Coordinating Council to Khartoum, much in the same way that the Addis Ababa Agreement had done with its High Executive Council. Indeed, the Sudan Agreement's approach to resolving the North–South conflict largely mirrors that of the Addis Ababa Agreement, despite the 25 years that separated the two. Both agreements adopted similar provisions on regional self-government, finance, development, and freedom of belief. The Sudan Agreement did provide for a referendum on southern self-determination, but the failure to delegate power from the centre to the Coordinating Council meant that the referendum became one of many features that never materialized.

The Sudan Agreement thus paid lip service to Ghani and Lockhart's statebuilding strategies, envisioning an inclusive secular state and providing for the decentralisation of power. However, the central state had no intention of admitting marginalized actors to a reconstituted centre, nor did the 'new rules' established by the agreement allow marginalized actors to challenge the centre's dominance. Riek Machar himself noted that in securing a referendum for the South, the Sudan Agreement conceded an Islamic centre in Khartoum: 'That model clearly failed. If we don't change the Centre, and end the dominance of a minority clique, then there is little hope for a sustainable peace in the South' (International Crisis Group 2002b). The lessons Machar learned in this regard would significantly influence his outlook upon his return to the SPLM/A in 2002. Machar would become the inaugural first vice-president of South Sudan in July 2011, and the leader of the SPLM in opposition in the country's civil war.

Though the Sudan Agreement proposed an equitable redistribution of federal revenue

and natural resources, the government's efforts in that regard appear largely rhetorical. The agreement recycled the Addis Ababa Agreement's flawed provisions on financing the southern region through regional taxes and levies. Without explicit and exacting guarantees on how the nation's revenue was to be shared, the Sudan Agreement rendered the southern states' economic sovereignty dependent on funding from the federal government in the same way that the 1972 agreement had done. The government pledged to establish development projects—just as it had done in 1972—but the Sudan Agreement offered little detail as to how this would effect a transformation in the relationship between centre and periphery in a new Sudan. Given the extent to which the 1997 agreement mirrors many of the 1972 agreement's ineffective provisions on paper, it is difficult to imagine how it could effect a change in the complex economic and cultural relationships that characterized Sudan's civil war.

The Sudan Agreement appeared to satisfy southern aspirations on paper: it provided for freedom of religion and belief, a more equitable distribution of wealth and power, further representation in the federal government, and regional self-government pending a referendum on secession from northern Sudan. Many of these key provisions went on to occupy a central and celebrated role in the CPA some eight years later. The SSDF was duly left to ponder 'why their deal with the government was perceived as a sell-out for the South... while the various agreements the SPLM signed with northern political parties [were] justified as advancing southern interests' (International Crisis Group 2005, 7–8) The telling difference between the two agreements was that the CPA enjoyed international support while its predecessor did not. By the late 1990s, Garang had established the SPLM/A as the legitimate representative of southern aspirations on the international stage (Young 2012). Indeed, one Sudanese government official concluded that the Sudan Agreement 'was the right agreement but the wrong party as far as peace in Sudan was concerned' (International Crisis Group 2002a, 15–16; Ofuho 2006; D. H. Johnson 2014). Realizing that the SPLM/A would be crucial to any functioning

settlement, the Bashir regime agreed to a peace process mediated by the Intergovernmental Authority on Development (IGAD). That process would eventually culminate with the CPA.

### ***III. C. Comprehensive Peace Agreement (2005)***

Following its annual summit in 1993, the IGAD issued a Declaration of Principles (DoP) as a ‘basis for resolving the conflict in the Sudan’ (‘The IGAD Declaration of Principles’ 1994). The DoP stipulated that the people of south Sudan had a right to self-determination if the Sudanese government would not embrace secularism and democracy. The DoP further recognized the need for extensive self-government throughout the nation; the separation of church and state; and an equitable distribution of wealth among the multi-racial, multi-ethnic and multi-cultural peoples of Sudan. The Bashir regime was not prepared to accept these principles as preconditions to further talks in 1994 (el-Mukhtar Hussein 2006). However, with international pressure mounting and the Sudan Agreement failing to relieve it, Khartoum finally agreed to negotiate on the basis of the DoP in May 1998.

Progress on the major issues was slow, but the breakthrough finally came when the parties concluded the Machakos Protocol in July 2002. The protocol recognized the southern right to self-determination, while striving to ‘redress the grievances of the people of South Sudan’ within a framework that upheld the unity of the nation (‘The Machakos Protocol’ 2002). The protocol provided for southern self-government within a unified Sudan, pending an internationally monitored referendum on independence at the end of a six-year interim period. In its pursuit of an inclusive state, the central government recognized Sudan as ‘a multi-cultural, multi-racial, multi-ethnic, multi-religious and multi-lingual country,’ in which religion would not be used as a divisive factor (‘The Machakos Protocol’ 2002). The national government vowed to consider the religious and cultural diversity of the Sudanese people in all its laws, and to apply Sharia law ‘only in respect of the states outside Southern Sudan’ (‘The Machakos Protocol’ 2002). Everything that followed in the three years that separated the Machakos

Protocol and the conclusion of the final agreement in 2005 simply added detail to the provisions agreed upon at Machakos (el-Mukhtar Hussein 2006). It is thus fitting that the protocol served as the first Chapter of the CPA.

The CPA was the first agreement emanating from the North–South conflict to give the people of South Sudan an active role in the overlapping processes of statebuilding and peacebuilding. Many of the ceasefire and monitoring mechanisms were bilaterally comprised of representatives from both of the belligerent parties, and decisions were to be made by consensus. Joint Integrated Units—comprised of both SAF and SPLM/A officers—were to serve as a symbol of unity within the armed forces, and would provide the ‘nucleus of a post-Interim Period future army of the Sudan should the vote of referendum confirm unity’ (CPA, 2005). The parties were obliged to implement the agreement ‘fully and jointly,’ and ‘to give legal and constitutional effect to the arrangements agreed therein’ (CPA, 2005). To this end, a National Constitutional Review Commission was charged with preparing an interim constitution and any other legal instruments necessary to give effect to the CPA. The Sudanese Constitutional Court had ultimate authority over the interim constitution; the human rights protected thereunder; and the state and peacebuilding apparatus prescribed by the agreement. By tying the agreement to the Sudanese constitutional framework in this manner, non-compliance became equivalent ‘to constitutional disorder with dire repercussions for the unity of the Sudan’ (L. B. Deng 2005, 244).

Under the CPA, Sudan would continue to be governed by a national government with exclusive powers over, *inter alia*, national defence, citizenship, and foreign affairs. However, the agreement created a Government of South Sudan (GoSS) with unprecedented and exclusive powers over the adoption of its own constitution; legislation pertaining to its structures of governance; planning for regional services including health, education and welfare; and developing financial resources for the region. Crucially, the GoSS’s executive organ—the

Executive Council of Ministers—remained independent of Khartoum’s influence. The CPA explicitly states that the President of the GoSS appoints his/her ministers to the executive, and the executive is ultimately accountable to him/her alone. This is significant, given the extent to which successive regimes in Khartoum had previously interfered with political appointments in the south. The President of the GoSS also enjoyed a significant role in the national government: they would serve as the First Vice-President of the Republic, and their consent was required for appointments to the national government and the peacebuilding institutions. The CPA thus reflected a much more participatory approach to peacemaking and statebuilding in Sudan, as is further evidenced by the agreement’s provisions on wealth sharing. Wealth sharing was premised on ‘a commitment to devolution of power and decentralisation of decision-making’ (CPA, 2005). This statement of principle stands in stark contrast to the wealth sharing provisions in previous agreements, and is symbolic of the extent to which the CPA decentralized political power through statebuilding. A detailed formula for the redistribution of oil revenues served as a cornerstone of South Sudan’s transition to a functioning polity under the CPA. Between 2005 and 2009, the GoSS received \$8.3 billion in oil revenues, with oil revenue providing 98 percent of the polity’s operating budget in 2011 (Patey 2010; International Crisis Group 2011).

However, the CPA’s power and wealth sharing provisions were predicated on an equitable but *exclusive* arrangement between the SPLM/A and Omar Al Bashir’s National Congress Party—the principal parties to the agreement. The agreement granted the parties a majority share in the statebuilding and peacebuilding apparatus, leaving little space for other political parties and civil society actors to shape the polities that emerged (Itto 2006; Aldehaib 2010). It was assumed that other stakeholders would increase their representation through the elections that were scheduled under the agreement, but in fact, the opposite occurred (de Waal 2017). The bilateral nature of the CPA’s power and wealth sharing provisions allowed the

signatories to dominate the political marketplace maintained by the CPA (de Waal 2014; Thomas 2009). What followed was a process of consolidation and expansion: north and south of the border, the oil dividend and the peace dividend were spent accumulating weapons and securing the allegiance of key stakeholders that could determine a resurgent North–South conflict (de Waal 2014; 2017). The CPA can duly be described as a ‘bipartisan conspiracy’ that allowed its signatories to entrench themselves in the neo-patrimonial state apparatus, much to the detriment of the myriad constituents that were implicated in the increasing fragmentation of the Sudanese state (Thomas 2009, 14).

The CPA’s provisions on South Kordofan, Abyei, and Blue Nile—Sudan’s ‘three areas’—exemplify how the agreement’s distribution of power and wealth oriented on a North–South axis exclusively. The three areas occupied territory in the Republic of Sudan, but each readily identified with the southern states that had been neglected and marginalized by the central government. Accordingly, the CPA attempted to accommodate the three areas within a national framework that would be subject to the will of the people in those areas. When this did not occur, the peace process moved forward regardless. When South Sudan voted to secede from the Republic of Sudan in January 2011, fighting broke out in South Kordofan and the national government forcibly seized Abyei. The unrest spread to Blue Nile several months later, and the conflict remains unresolved to date. The lack of progress on these key aspects of the CPA suggests that the statebuilding practices aimed at admitting the SPLM/A to a new legitimate centre—and the new rules that facilitated its participation in this regard—did not extend to other marginalized constituencies. Even a cursory glance at the particular arrangements for Sudan’s three areas reveals that local actors possessed very little power to force key issues. The CPA’s failure to deliver on these key provisions highlights one of its most debilitating flaws: that it engineered a North–South solution to what it perceived to be a North–South conflict exclusively. In doing so, it fomented the narrative that each of Sudan’s conflicts



were isolated and unrelated to the crisis of legitimacy at the heart of the Sudanese state (Matus 2006). The Sudanese state has hitherto maintained this narrative, with disastrous consequences for the peoples of Sudan.

### ***III. D. The Revitalised Agreement on the Resolution of the Conflict in South Sudan (2018)***

Though the CPA ultimately delivered on the promise of southern self-determination in July 2011, secession was only a means ‘of reframing the problems of uneven development in Sudan, not a solution for them’ (Thomas 2009, 22). The democratic and highly devolved GoSS envisioned under the CPA did not materialize in post-independent South Sudan. In concentrating political power in the SPLM/A, the CPA ‘inadvertently sowed the seeds for one-party rule... and undermined the development of multi-party democracy’ (International Crisis Group 2011, 2). This is best exemplified by the process of constitution-making that first conceptualised the South Sudanese state. The 2011 Transitional Constitution of South Sudan (TCSS) was drafted exclusively by the SPLM with limited participation from other stakeholders; passed by the legislative assembly controlled by the SPLM; and signed into law by President Kiir prior to South Sudan’s proclamation of independence (Kuol 2019). This process was not only unconstitutional under the 2005 Interim Constitution of Southern Sudan: it also lacked legitimacy as a crucial exercise in state and nationbuilding (Kuol 2019; Ylönen 2016). The TCSS gave the President unchecked powers with regard to appointing and dismissing elected representatives at the federal and state levels—powers that President Kiir duly exercised to sack his entire cabinet and vice president Riek Machar in July 2013. Kiir’s reconstituted cabinet consisted of 19 ministers, all of which were SPLM but for three members of South Sudan’s other political parties. South Sudan duly emerged as a southern incarnation of the toxic centre–periphery relationship that characterized the Sudanese state since independence, with Juba as its new centre (International Crisis Group 2011; Bennett et al. 2010;

de Waal 2014). Political competition for control of the new centre stoked ethnic and tribal tensions, and South Sudan descended into its own civil war in December 2013.

In August 2015, the SPLM in government and the SPLM in opposition signed the IGAD-mediated ARCSS. The agreement ushered in an interbellum of eleven months, though it served as ‘an imperfect solution’ to the fault-lines that permeated the new nation (International Crisis Group 2016, i). Tensions persisted over the national governance issues that the agreement addressed in theory and the more localized grievances that it did not, and conflict resumed in July 2016. Peace talks were rejuvenated by the careful mediation of the IGAD, and a revitalized version of the agreement was signed by the main parties to the South Sudanese conflict in September 2018.

The R-ARCSS embodies the ‘totalizing enterprise’ of statebuilding through a peace agreement (McAuliffe 2017, 248). The agreement touches upon almost every aspect of social and political life in South Sudan, decentralizing political power; prescribing new rules through constitutional reform and legislative revision; and providing for further reform of the judiciary, the security sector, and the economy. A ‘systematic and participatory process’ of institutional reform is a major theme of the R-ARCSS, and reflects the parties’ quest for an inclusive state (Papagianni 2009; Ghani and Lockhart 2007, 279). The agreement recognises provides for the input of faith-based groups, women’s groups, youths, ethnic minorities, academics and civil society actors in constitution-making; economic, financial and resource management; and security sector reform. The agreement seeks the input of civil society actors in the design of the Commission for Truth, Reconciliation and Healing so ‘that the experiences of women, men, girls and boys are sufficiently documented’ (R-ARCSS, 2018). Gender is also a prominent theme throughout the R-ARCSS. As with the TCSS and the ARCSS, the R-ARCSS prescribes a gender quota of 35 percent within the national executive, and one of the four vice-president positions are assigned to a woman. In addition to their explicit inclusion in most of the

reforming processes listed above, three of the nine positions on the board of the Bank of South Sudan are assigned to women. The Hybrid Court for South Sudan's jurisdiction also extends to gender based crimes and sexual violence.

The consultative processes and the federalised of government system put in place by the R-ARCSS seek to devolve power away from the highly centralized South Sudanese presidency – another common statebuilding strategy under Ghani and Lockhart's analysis. To this end, the agreement creates four additional presidential positions of equal rank. Decisions regarding declarations of war/states of emergency; constitutional and legislative reforms; and appointments under the peace process are to be made by 'collegial collaboration' and 'continuous consultations' within the Presidency (R-ARCSS, 2018). The agreement guards against deadlock and conflict by providing that decisions must be recorded in writing, and made by agreement of at least four within the Presidency, or failing that, by two-thirds majority of the Council of Ministers.

However, the R-ARCSS does little to challenge the President's unilateral control over key components of the state apparatus, and fails to admit new voices to the executive positions that will determine South Sudan's statehood. In this regard, the agreement presents a deeply flawed reading of Ghani and Lockhart's dominant statebuilding strategies. The President remains responsible for making appointments to the executive organs, including two of the four vice presidents. The remaining presidential appointments are nominated by the South Sudan Opposition Alliance, and the SPLM faction comprised of former detainees. Of the 35 ministerial positions available in the transitional government, Kiir's incumbent SPLM retain a majority of 20 positions. Machar's SPLM in opposition are assigned nine ministries, while the South Sudan Opposition Alliance and the coalition of former detainees receive three and two, respectively. Only one ministry is assigned to the 'other political parties' that are not signatories to the agreement, and this occurs after the principal signatories have had their first pick of the

available ministerial portfolios. Kiir and Machar's SPLM factions dominate the expanded legislative assembly with a 60 and 23 percent share of the available seats, respectively. This leaves nine percent of the seats for the South Sudan Opposition Alliance and five percent for South Sudan's other political parties. The R-ACRSS' power sharing provisions are thus premised on the President conceding a modicum of executive power in return for the cooperation of the political elites who have hitherto challenged his power through violent conflict. This pattern of peacemaking has been repeatedly employed in Sudan, from the Addis Ababa Agreement in 1972 through the CPA in 2005 (Badal 1976; Kuol 2019). It continues to fall far short of the optimum strategies identified by Ghani and Lockhart, and continues to destabilize peacebuilding and statebuilding efforts in contemporary South Sudan (de Vries and Schomerus 2017).

The R-ARCSS' significant provisions on reform demonstrate how the accommodation of armed elites repeatedly spurned the creation of a new legitimate centre at the expense of other key stakeholders. Despite the participatory processes put in place by the agreement, its power sharing formula continues to centralize power amongst the principal parties to the agreement. The new institutions envisioned under the agreement and the review of national legislation are the responsibility of the transitional government, within which South Sudan's other political parties enjoy only one position. Electoral reform remains within the remit of the President, in consultation with the other parties to the agreement and the approval of the legislative assembly—within which South Sudan's opposition and other political parties only have a combined 14 percent of the available seats. Though the R-ARCSS pledges 'transparent and accountable' financial management, and 'effective leadership in the fight against corruption' (R-ARCSS, 2018), it is doubtful that the agreement cedes enough executive power to secure new rules capable of transforminh the culture of corruption that has plagued South Sudan to date. The head of the revitalised Anti-Corruption Commission is appointed by the

President, in consultation with the vice presidents and the approval of the legislative assembly. The President also chairs the Economic and Financial Management Authority—the body charged with ensuring transparency and accountability in public expenditure, revenue collection, and the award of contracts for natural resources. Furthermore, the penalization of diverting oil revenue remains the competence of the central government. Given the extent to which political elites are implicated in South Sudan’s neo-patrimonial structures of governance (de Waal 2014; 2016; Papagianni 2009), the R-ARCSS’ provisions on socio-economic reform do not inspire confidence. Instead, they are reminiscent of the CPA’s provisions on power and wealth sharing, which allowed the SPLM/A to entrench itself in the South Sudanese state apparatus, rather than transform it.

The legacy of the CPA is written through the R-ARCSS. The revitalized agreement is tied to South Sudan’s transitional constitution through a process of review and amendment that is remarkably similar to that envisioned under the CPA. The R-ARCSS’ general principles on fiscal policy also utilize the text of the CPA; citing a need to balance reconstruction against the need for service delivery, and ‘a commitment to devolution of powers’ and ‘the decentralization of decision-making’ (R-ARCSS, 2018). Given that the CPA did not deliver in these respects, it is unclear why the R-ARCSS reproduces these provisions with such tacit approval. The agreement does attempt to contend with the past and determine a more peaceful future for South Sudan, however. The consultative process of constitution-making envisioned under the agreement is to draw lessons from South Sudan’s ‘constitutional history and experience,’ and the provisions of the R-ARCSS itself (R-ARCSS, 2018). In its preamble, the agreement states a determination ‘not to repeat the mistakes of the past’ (R-ARCSS, 2018). Finally, the Hybrid Court for South Sudan looks to the future, striving to leave ‘a permanent legacy in the State of South Sudan’ as it grapples with a significant history of violence in the country’s all too brief post-independence period.

At the 73rd session of the UN General Assembly, acting First Vice President of South Sudan, Taban Deng Gai, cited an African proverb that advises ‘to look where you have slipped, because it is there you will find what made you fall’ (Gai 2018). Despite these rhetorical sentiments, the R-ARCSS does not appear to have learned the particular lessons unique to Sudan and South Sudan’s experience of statebuilding. The R-ARCSS presents an inclusive and participatory political framework informed by normative standards and best practice (Kuol 2019; Papagianni 2009; Ghani and Lockhart 2007). On paper, the agreement devolves power and facilitates an inclusive state in a manner hitherto unprecedented in Sudan and South Sudan. However, by reconciling the mistakes of the past with the political realities of the present, the agreement presents an accommodation that may yet threaten its long-term viability. In concentrating political power amongst the armed elites that have waged South Sudan’s civil war to date, the R-ARCSS affords these actors the opportunity to entrench themselves in the state apparatus, just as the CPA had done for the Bashir regime and the SPLM/A. While the parties could use this framework to lead an inclusive process of statebuilding, previous experience suggests this is extremely unlikely (de Waal 2014; Moro et al. 2017), and the R-ARCSS does little to guarantee new rules that would secure such an outcome. What is likely to result is increasing fragmentation of the peaceful political landscape as the signatories to the agreement struggle to challenge President Kiir’s power, and the marginalized voices struggle to have their grievances heard (de Vries and Schomerus 2017). This anticipated pattern of behaviour recalls the fragmentation of the SPLM in the wake of South Sudanese independence in 2011 and the conclusion of the CPA process. The parallels that the R-ARCSS and the CPA share—as presented and predicted herein—suggest that South Sudan has yet to learn how to escape its recurring cycles of violence.

#### **IV. Conclusions**

Sudan and South Sudan’s shared experience of peacemaking reveals much about the decisive

role that peace agreements play in building post-conflict states. Over the course of 50 years, the parties to the Sudanese civil wars consistently adopted legal instruments that were tied to—or that comprised—processes of state formation. Each peace agreement was drafted with a formal legal aesthetic that conveyed a genuine sense of transformation on existing state and society relationships. Yet despite their promising provisions, peace agreements in Sudan and South Sudan were often subject to political manipulation, and were abrogated or abandoned when political expediency deemed it necessary. This was made possible by legal mechanisms that reinforced existing structures of political and economic power, and preserved centralized authority over any developing peace process. To conclude, this paper analyses the dominant statebuilding strategies that were repeatedly employed in Sudan and South Sudan.

Transitional periods have been a prominent feature of peacemaking efforts in Sudan and South Sudan. Even the Addis Ababa Agreement—which did not establish a transitional period as a key feature of its text—provided for ‘interim arrangements’ to govern the transition to southern self-government. Transitional periods lay the groundwork for holistic statebuilding processes by contributing to the normalisation of non-violent interactions between former belligerents. Statebuilding strategies such as fomenting an inclusive state and decentralizing power are often deployed during transitional periods. Inclusive and consultative mechanisms provide an opportunity for stakeholders to practice joint decision making with regard to political and legal reform, thereby increasing the perceived legitimacy of the institutions that result (Sharp 2014; Lambourne 2009; Papagianni 2009). Over time, transitional periods in Sudan and South Sudan have expanded to include detailed timetables for implementation, complex supervisory mechanisms, and processes of electoral reform pending national elections. However, peace agreements that guarantee long-term power sharing and autonomy arrangements often fail to expand political participation beyond the principal signatories to an agreement (Papagianni 2009). This has unfortunately been the case in Sudan and South Sudan,

as evidenced by the CPA and the R-ARCSS. Both agreements allowed their signatories to consolidate their power, thus inhibiting the development of new rules under which political power may be contested. Where peace agreements legitimate existing structures of power, arrangements that were initially transitional become ‘sticky’ (Pospisil 2019, 7–8). Indeed, the CPA—itsself a transitional basis for a permanent Sudanese constitution—governed Sudan until al-Bashir’s ouster in April 2019. South Sudan’s interim constitution of 2011 remains in place, and has yet to give way to the processes of constitutional reform envisioned under both the ARCSS and the R-ARCSS.

Throughout the conflicts in Sudan and South Sudan, the territorial integrity of the state remained a priority, in keeping with traditional thinking on borders and the role of the sovereign. As a result, peace agreements in the region decentralized power in increasingly generous ways in order to preserve the unitary state. The manner in which these arrangements were legally framed had a significant impact on how autonomy has played out in practice, however. The Addis Ababa Agreement, for example, espoused a regional southern government with executive and legislative power, but these powers were limited by the degree of control that the central government retained over education, economic and social development, and regional planning. President Nimiery also exercised ultimate control over appointments to the southern executive. The 1997 Sudan Peace Agreement bound the southern Coordinating Council to the regime of Omar al-Bashir in much the same way. The CPA, in contrast, created a truly autonomous GoSS, capable of exercising southern self-determination and forcing the issue when the implementation of the agreement began to falter. Though the central government exercised authority over issues of Sudanese sovereignty, the GoSS had unprecedented authority over the territory of South Sudan; competence to adopt its own constitution; and freedom to legislate on matters to pertaining South Sudan’s political, cultural and economic future.

Though autonomy eventually led to independence for South Sudan, the failure to truly



decentralize power as part of an inclusive statebuilding strategy remains evident (International Crisis Group 2011). The CPA accommodated the SPLM/A within a political framework that maintained Khartoum's privileged position at the centre, and consolidated the SPLM/A's hold over the emerging South Sudanese state. In independent South Sudan, aggrieved actors are accommodated through devolution rather than autonomy, but the overarching strategy remains the same. The ARCSS and the R-ARCSS suggest that Kiir will continue to devolve authority to armed actors in order to maintain his dominance of the centre—a tactic previously employed by the Bashir regime in Sudan (International Crisis Group 2015). South Sudan has duly been labelled a system of governance that is 'even less regulated and no less brutal than its northern counterpart' (de Waal 2014, 349). Indeed, Kiir's power play to increase the number of states in South Sudan in 2015 and again in 2017 was reminiscent of the unilateral behaviour of President Nimiery in the latter days of the Addis Ababa Agreement, and the divide and conquer tactics of the Bashir regime up to and beyond the process that culminated with the CPA.

The impact of previous statebuilding practice thus continues to have a profound effect in Sudan and South Sudan. de Waal (2014) argues that South Sudan's contemporary dysfunction can be tracked back to the way that Sudan governed southern Sudan, which itself had been shaped by colonial policy. The colonial tendency to centralize power and wealth to the detriment of peripheral constituents manifests itself in the peace agreements of Sudan and South Sudan. The question of redistributing national wealth was either ignored or postponed under the Addis Ababa and Sudan agreements. Though wealth sharing occupies a more prominent position in the CPA and the R-ARCSS, the wealth remains centralized in the hands of political elites whose concept of the state cannot be meaningfully challenged. As Kalpakian (2017) argues, peace agreements in Sudan and South Sudan have repeatedly legitimated political frameworks in which wealth and power are distributed along very specific lines. In doing so, they have rejected Ghani and Lockhart's new rules in favour of the status quo. Wealth

and power sharing cannot be successfully implemented without renegotiating this state–society relationship—something that peace agreements in the region have failed to do to date.

Both Sudan and South Sudan are currently experiencing watershed moments in their statehood. Following Bashir’s removal from office in April 2019, Sudan is facing a ‘twin transition’ from both authoritarianism *and* armed conflict. This presents a long-awaited opportunity for Sudanese society to reconsider the nature of the Sudanese state, and the rules that allow access to power and resources within it. The demands of the Forces for Freedom and Change evidence the overlap between peacemaking and statebuilding: their desire to negotiate an end to the conflicts in Darfur, South Kordofan and Blue Nile is tied to national processes of constitution-making and electoral reform (Pospisil 2019). Any future agreement on Darfur and Sudan’s ‘three areas’ must be informed by Sudan’s previous experience, however. The interests of key military players may need to be reckoned with, but any sustainable solution must cede power away from the centre while upholding the territorial and political integrity of Sudan. Whether these goals can be achieved by Sudan’s transitional government remains to be seen, but the signs are promising.

It is difficult to say the same of South Sudan. Where Sudan is experiencing a revolutionary moment, South Sudan is governed by a political framework that maintains the status quo. The R-ARCSS does not offer an innovative solution to persistent questions regarding equitable access to power, to resources, and to basic services. Only a political process of broad-based participation can address these issues, which lie beyond the elitist competition for control at the centre, and have greater implications for the future of the South Sudanese state. If South Sudan is to escape its own history of conflict, it must consider the political and legal structures it has erected in the past, and avoid recreating the inequitable relationships visited upon the region by colonial statebuilding and unilateral peacemaking.

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<sup>i</sup> Mansour Khalid (Garang 1992; in Ali and Matthews 1999a; in 1999b).

<sup>ii</sup> Attendee at the Khartoum Roundtable Conference, 1965 (Wai 1973a; in 1973b; in Ali and Matthews 1999a; in 1999b).

<sup>iii</sup> Ty McCormick also argues that '[i]n the colonial era, successive administrations in Khartoum regarded the lush, swampy south of Sudan as a backwater—when they weren't plundering it for slaves and ivory, that is.' (McCormick 2015).

<sup>iv</sup> Christian missionary activities were prohibited, except under license, and Muslim schools sprang up in both urban and rural areas. Arabic became the language of instruction in schools, and southern public servants were made redundant for their lack of Arabic. A recruitment ban for the police and prison forces came into effect in the south, and vacant places in these sectors were filled with recruits from the north.