

**OIL BELONGS TO THE SOUTH, 'LAND BELONGS TO THE COMMUNITY':  
ASSERTING CONTROL OVER NATURAL RESOURCES IN SOUTH SUDAN**

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## ABSTRACT

After more than two decades of civil war, southern Sudan seceded from Sudan in 2011. The relationship between Sudan and newly independent South Sudan has been marked by tension as both states manage rapid political, social, and economic transition that has been brought on by the split. Recognizing that oil and land have contributed significantly to the cause and continuation of earlier conflict, addressing natural resources in an equitable and sustainable manner is key to maintaining peace in the region. Yet, since independence, there has been an ongoing struggle between the South and the North regarding oil transport and claims of land grabbing have further compromised the ‘new direction’ of the state. This thesis grapples with the challenges to natural resource management in South Sudan in the post-independence period, specifically oil and land. In particular, it examines the contradictions between economic and political objectives of Southern oil pipelines and explores connections between natural resources and state sovereignty in South Sudan. Furthermore, it examines localized land resource management challenges in the context of returnees, insecurity and the policy of ‘land belongs to the community’, where community rights to land trump other interests to the land. While rapid reform and nationalistic discourse surrounding natural resources can be expected during the process of state formation, I argue that certain narratives that have emerged regarding natural resource sovereignty and customary land access present certain practical challenges in the immediate term – risking long-term political consequences.

## RÉSUMÉ

Après plus de deux décennies de guerre civile, le Soudan du Sud s’est séparé du Soudan en 2011. La relation entre le Soudan et le nouvellement indépendant Soudan du Sud fut marquée par beaucoup de tension alors que les deux états tentent de gérer les transitions politiques, sociales et économiques précipitées qui ont été causées par la séparation. Considérant que le pétrole et le territoire ont grandement contribué à la cause et à la poursuite de conflits antérieurs, il est impératif que la question des ressources naturelles soit abordée sous un angle équitable et durable, afin de maintenir l’ordre public dans la région. Pourtant, depuis la séparation, le conflit se poursuit entre le Sud et le Nord au sujet du transport du pétrole, en plus des revendications territoriales qui compromettent la ‘nouvelle orientation’ de l’état. Cette thèse aborde les défis liés à la gestion des ressources naturelles au Soudan du Sud suite à son indépendance, surtout le pétrole et le territoire. Plus particulièrement, elle examine les contradictions entre les objectifs économiques et politiques des pipelines du Sud et étudie les relations entre les ressources et la souveraineté au Soudan du Sud. De plus, elle examine les défis de gestion des ressources territoriales au niveau local dans un contexte de citoyens rapatriés, d’insécurité et de politiques de type ‘le territoire appartient à la communauté’, là où les droits territoriaux de la communauté surpassent les autres préoccupations par rapport au territoire. Comme une réforme précipitée et un discours nationaliste autour des ressources naturelles sont attendus pendant le processus de formation de l’état, je soutiens que certains récits qui ont fait surface au sujet de la souveraineté des ressources naturelles et l’accès habituel au territoire présentent plusieurs défis pratiques dans l’immédiat, s’exposant à des conséquences politiques à long terme.

## PREFACE & CONTRIBUTION OF AUTHORS

This thesis is comprised of three manuscripts that address various facets of my research questions. While I had initially intended to write in monograph-style, a series of publication opportunities emerged shortly after I had returned from fieldwork.

The first two manuscripts included in this thesis are based on conference presentation I made in Paris in November 2013. The conference, entitled, 'Les routes du pétrole' [Oil Routes] was hosted by l'Université Paris-Sorbonne, le Centre National de la Recherche Scientifique (CRNS), and Total. The third manuscript is aimed at addressing portions of my research that were neglected by the broader scope of the conference papers, principally micro-level land and resource concerns in South Sudan.

The first manuscript (Chapter 2) is co-authored Dr. Philippe LeBillon (University of British Columbia) and myself. While it is difficult to untangle the precise phrases that Dr. LeBillon or myself wrote as we passed this manuscript back-and-forth through the development and editing process, I was responsible for writing the introduction, background, two development sections ('pipelines, state-building and nation-building' and 'southern pipelines: independence 2.0?') and the conclusion. It is important to note that this paper also exists in an 'extended version' of 12,000 words. This manuscript was also greatly improved by several excerpts from interviews Dr. LeBillon conducted in 2011. A version of this paper will be submitted for review to *Review of African Political Economy*. The version that appears in this thesis has been repeatedly modified by comments from my supervisor and committee as well as my reviewers.

I also acknowledge Dr. LeBillon's contributions and his guidance generally as they have affected my second manuscript (Chapter 3) based on my initial conference presentation regarding nationalism and oil in South Sudan. This paper builds on the failure of the economic rationale for peace presented in Chapter 2. This manuscript will appear in: Beltran, Alain (Ed.) (2014). *Les Route Pétrole*. Brussels: Peter Lang. [forthcoming].

The final manuscript (Chapter 4) was submitted to *The Journal of Eastern African Studies* and is presently under review.

In addition to the direct contributions of Dr. LeBillon, I recognize the contribution of my supervisor, Dr. Jon Unruh, who has guided this research and provided me with a great deal of suggestions as well as practical assistance throughout this process. His comments and criticisms are reflected in this thesis and have greatly enhanced my work. Thesis committee members - Dr. Philip Oxhorn and Dr. Thomas Meredith - have also provided me feedback throughout my research process. My research questions, research methodology, as well as this final synthesis has undoubtedly been improved thanks to their comments and suggestions. I acknowledge the [awesome] feedback provided by the internal reader, Dr. Sarah Moser, and the external examiner, Dr. James Ford, who have provided final insights and suggestions that are reflected in my writing.

All errors and omissions remain my own.

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## ABBREVIATIONS

AU – African Union  
AUHIP - African Union High-Level Implementation Panel for Sudan and South Sudan  
Bpd – Barrels (Crude Oil) per day  
CES – Central Equatoria State  
CNPC – China National Petroleum Company  
CPA – Comprehensive Peace Agreement  
DRC - Democratic Republic of the Congo  
EAC – East African Community  
ECOS – European Coalition for Oil in Sudan  
EES – Eastern Equatoria State  
GNOP – Greater Nile Oil Pipeline  
GNPOC – Greater Nile Petroleum Operating Company  
GNU – Government of National Unity  
GoS – Government of Sudan  
GoSS – Government of South Sudan  
IDP – Internally Displaced Person  
IGA – Intergovernmental Agreement  
IGAD – Intergovernmental Authority on Development  
IMF – International Monetary Fund  
IOCs - International Oil Companies  
JEM – Justice and Equality Movement  
LAPSSET – Lamu Port and Lamu – South Sudan – Ethiopia Transport Corridor  
LRA – Lord’s Resistance Army  
MOU – Memorandum of Understanding  
NIF – National Islamic Front  
NPC – National Congress Party  
NGO – Non-Governmental Organization  
PRMA – South Sudan *Petroleum Revenue Management Act* (2012)  
SAF – Sudanese Alliance Forces  
SPLA – Sudan People’s Liberation Army  
SPLM – Southern Peoples Liberation Movement  
SPLM-N - Southern Peoples Liberation Movement - North  
SPLA-N - Southern Peoples Liberation Army - North  
SSDF – South Sudan Defense Forces  
SSIM – South Sudan Independence Movement  
SSPRC – South Sudan Peace and Reconciliation Commission  
UN – United Nations  
UNDP – United Nations Development Program  
UNMIS – United Nations Mission in Sudan  
UNMISS – United Nations Mission in South Sudan  
UPDF – Uganda Peoples Defence Forces  
USAID – United States Agency for International Development  
USD – United States Dollar  
UXOs – Unexploded Ordinances

## GLOSSARY

*Addis Ababa Peace Agreement*: Signed in 1972, the Addis Ababa Peace Agreement put an end to the First Sudanese Civil War. The Agreement established the semi-autonomous Government of southern Sudan. The Agreement was not fully implemented, leading to the start of the Second Sudanese Civil War in 1983.

*African Union High-Level Implementation Panel for Sudan and South Sudan (AUHIP)*: A panel appointed by the African Union to facilitate negotiations between the Government of Sudan and the Government of South Sudan regarding conflicts that emerged since the South's independence in 2011, including oil, security, and borders.

*Boma*: Village, the smallest administrative unit under the *Local Government Act* (2009).

*Comprehensive Peace Agreement (CPA)*: Signed in 2005 between the Government of Sudan and the Sudan People's Liberation Movement (SPLM), putting an end to the Second Civil War. The Agreement consisted of six chapters intended to address the root causes of the war including: security, wealth sharing, regional autonomy, and boundary disputes.

*East African Community (EAC)*: East African regional intergovernmental organization whose members include: Kenya, Tanzania, Uganda, Rwanda, and Burundi. The organization works towards strengthening economic, cultural, and political integration.

*Equatoria Defence Forces (EDF)*: A militia group active from 1995 to 2006 in Central and Eastern Equatoria States during the Second Civil War. The EDF were aligned with the South Sudan Defense Forces (SSDF) in opposition to the Sudan Peoples Liberation Movement/Army (SPLM/A). The group was disbanded and integrated into the South Sudanese army following the Juba Declaration in 2006.

*First Sudanese Civil War*: Sparked by a mutiny in Torit in 1955, the First Sudanese Civil War was primarily fought between the Government of Sudan and the Anyanya, a southern liberation movement that demanded southern political representation and autonomy. The war was ended in 1972 with the Addis Ababa Peace Agreement.

*Government of National Unity (GNU)*: A coalition government between the National Congress Party (Government of Sudan) and the Sudan People's Liberation Movement (SPLM) (Southern Sudan) that was formed as a part of the Comprehensive Peace Agreement in 2005.

*Greater Nile Oil Pipeline (GNOP)*: A pipeline built by the Greater Nile Petroleum Operating Company in 1999 that connect Sudanese oil fields to the Port of Sudan, allowing Sudanese oil to reach global markets for the first time.

*Greater Nile Petroleum Operating Company (GNPOC)*: An oil consortium created in 1996 by Arakis (Canada) (subsequently acquired by Talisman, Canada) when they sold

75% of their Sudanese oil interests to: China National Petroleum Company (China) (40%), Petronas (Malaysia) (30%), and Sudapet (Sudan) (5%). The Greater Nile Oil Pipeline was later built by the consortium.

*Juba Declaration:* A peace agreement signed between the South Sudan Defense Forces and the Sudan People's Liberation Movement. The agreement was intended to integrate militias that were not included in the Comprehensive Peace Agreement in order to create peace in the south.

*Justice and Equality Movement (JEM):* The Justice and Equality Movement (JEM) is considered one of the two main anti-government militias active in Darfur. They were active in the region alongside the Sudanese Liberation Army/Movement (SLM/A), not to be confused with the Sudan People's Liberation Army/Movement (SPLA/M). JEM has been supported by at different times by South Sudan, Eritrea, Chad, and Libya since its formation in the early 2000s.

*Khartoum Peace Agreement:* In 1997, the Government of Sudan signed the Khartoum Peace Agreement with various factions of the Sudan People's Liberation Movement/Army (SPLM/A). The agreement provided oil revenue sharing between the central authorities and these Southern factions, though the Agreement quickly dissolved as implementation failed. It is considered a significant factor in stabilizing the oil producing regions during the construction of the Greater Nile Oil Pipeline.

*Lamu Port and Lamu-South Sudan-Ethiopia Transport Coordior (LAPSSET):* a \$20 billion mega-infrastructure project that includes road, railway, airport, and a mega-port. LAPSSET falls under Kenya's 'Vision 2030' long-term development plan.

*Landlord* – The 'landlord' is a spiritual leader in communities under the traditional monyomiji governance system in Eastern and Central Equatoria State, South Sudan. The landlord is responsible for performing ritual ceremonies before cultivation and is generally seen as the authority over land in the community.

*Lord's Resistance Army (LRA):* A Uganda-based militia which was active in southern Sudan, specifically the Eastern Equatoria, from the mid-1990s until 2007. The LRA was aligned with the Government of Sudan and the SPLM/A-Nasir (and subsequent SPLM/A factions).

*Monyomiji:* A governance system found in the East Bank primarily among Lotuho, Lokoya, Lopit, Oloriok, Lango, Dongotono, Logir, Lulubo, Pari, and Acholi. *Monyomiji* are always male members of a community from an age-set between youth and elders, operating as a 'parliament' for the community. *Monyomiji* may have authority across multiple villages and control many issues related to land and resource control.

*Muraleen (also Mujaleen):* Local militias employed and armed by the Government of Sudan during the Second Civil War.

*Second Sudanese Civil War:* The Second Sudanese Civil War began in 1983 and ended in 2005, with the signing of the Comprehensive Peace Agreement. The conflict was motivated by conflict over power sharing between northern and southern interests and natural resources. While the central parties to the conflict were the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of Sudan, the war was characterised by overlapping factional violence in both the south and the north, resulting in high levels of civilian casualties and displacement.

*South Sudan Defense Forces (SSDF):* An umbrella militia group which was comprised of the Equatoria Defense Forces, the South Sudan Independence Movement (SSIM), various other smaller militias opposed to the Sudan People's Liberation Movement/Army (SPLM/A). The SSDF signed the Khartoum Peace Agreement with the Government of Sudan in 1997.

*Sudan Armed Forces (SAF):* The military forces of the Government of Sudan.

*Sudan People's Liberation Movement/Army (SPLM/A):* The Sudan People's Liberation Movement (SPLM) came into being in 1983 following the collapse of the 1972 Addis Ababa Agreement. It is the core southern militia active during the Second Sudanese Civil War. Presently, the SPLM/A forms the majority government and the army of South Sudan.

*Sudan People's Liberation Movement/Army-Nasir (SPLM/A-Nasir):* A Sudan People's Liberation Movement/Army (SPLM/A) faction that emerged in 1991. Among other disagreements, the SPLM/A-Nasir faction pushed for southern self-determination contrary to the SPLM/A push for a new united Sudan. They were supported by the Government of Sudan to fight the SPLA in the south. It dissolved in 1993 as a result of civilian disillusionment, infighting and wavering external support.

*Sudan People's Liberation Movement/Army-United (SPLM/A-United):* The SPLM/A-United replaced the SPLM/A-Nasir in 1993. It split again in 1994, SPLM/A-United faction remained active alongside its faction, the South Sudan Independence Movement.

*South Sudan Independence Movement (SSIM):* A faction of the SPLM/A-United active between 1994-1997 after signing the Khartoum Peace Agreement and creating the United Democratic Salvation Front political party.

*Payam:* The second tier of local government in South Sudan that oversees several boma. It is an administrative unit that coordinates with county government.

*Yau Yau Rebellion:* The Yau Yau rebellion is a 'Murle militia' formed by David Yau Yau following elections in Southern Sudan in 2010 (though some claim Murle politics, rather than national politics, are the group's motivation). Initially, the Yau Yau were primarily operating in Pibor County in Jongelei but have since expanded to areas of Eastern Equatoria. The Government of South Sudan claims that the Government of Sudan has provided military support to Yau Yau.

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## I. INTRODUCTION

After two decades of civil war and a historic self-determination referendum, balancing the relationship between Sudan and newly-independent South Sudan has challenged the capacity of the African Union and the international community to maintain peace through negotiation. It has also been a testament to the legacy of exclusionary natural resource management, particularly oil and land, can have on nation- and state-building in the post-war era. In recognition that the fair management of natural resources in South Sudan is an important factor in maintaining peace, this research examines the challenges of realigning the South Sudanese oil industry and southern land management practices given the complex post-war environment.

### *i. Background*

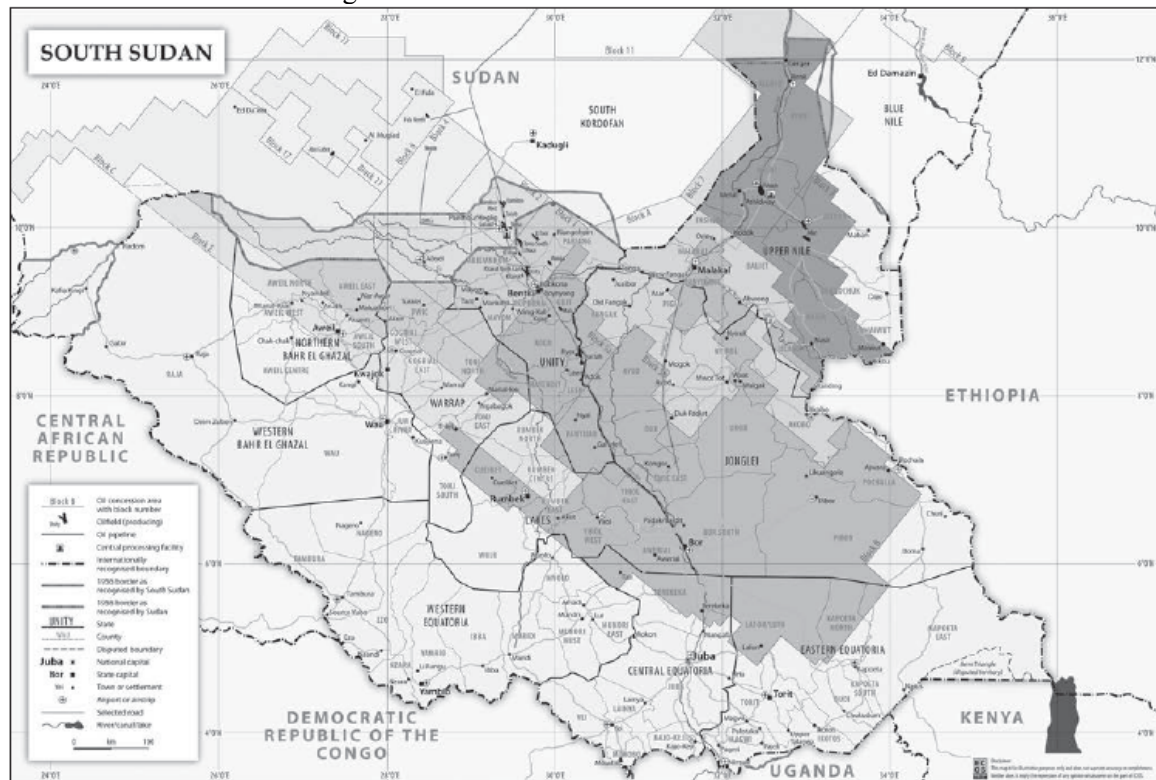
The Addis Ababa Peace Agreement in 1972 ended nearly two decades of conflict and southern secessionist struggle in Sudan. It marked the beginning of the first period of relative peace since the end of British-Egyptian Condominium<sup>1</sup> rule in 1956. The peace meant that the long-ignored southern region would gain some level of political autonomy and benefit from external investment for the first time since independence. During the negotiation of the Addis Ababa Agreement, oil had not yet been discovered. Later that decade, when oil interests in the region increased, oil concessions were almost exclusively located in the South (Figure 1) and were granted to oil companies without consultation with the Southern government (Alier, 1991; Lesch, 1998; Shinn, 2004).

These actions were validated by the *Petroleum Resources Act* of 1972 that stipulated management and benefits of the burgeoning oil industry were under the complete control of the northern government, yet the Southern government pushed for a stake in management. The South was dissatisfied with the marginal gains the regional government had granted them since the Addis Ababa Peace Agreement and, as a result, the Agreement slowly disintegrated.

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<sup>1</sup> Between 1899 and 1956, Sudan was administered jointly by Britain and Egypt.

Figure 1: Oil Concessions in southern Sudan



Source: ECOS (2013)

The Second Civil War began in 1983, led by the Sudan People's Liberation Movement/Army (SPLM/A). As a result of militia attacks that targeted oil installations and operators, all oil activities were suspended until the 1990s when Chevron sold its concessions (Johnson, 2011; Gawert & Andra, 2013). In spite of the civil war, investments from a number of private and state-owned firms that had purchased Chevron's inactive concessions meant the revival of exploration, construction and production. The renewed interest in the industry, while a boon to the Government of Sudan, was not well-received locally. The relative and short-lived peace offered by the 1997 Khartoum Peace Agreement between the Government of Sudan and rebel factions in the oil-rich border regions enabled the construction of infrastructure (HRW, 2003; Batruch, 2006; Moro, 2009). Most significantly, the Greater Nile Oil Pipeline (GNOP) allowed oil to leave Sudan for the first time, transforming the Sudanese economy and its capacity to fund the subsequent war effort (Pantuliano, et al., 2009).



While harassment of communities in the oil producing regions had been formally sanctioned by the state beginning in the early 1980s (Grawert & Andra, 2013), the financial gains offered by expanding active oil regions led to large-scale forced displacement of communities throughout the late-1990s and early-2000s (HRW, 2003; Moro, 2009; Grawert & Andra, 2013). Displacement was both a consequence of war and a legally sound practice given the land legislation at the time. In 1970, Khartoum introduced the *Unregistered Land Act*. The Act granted the government control over any land which had not been registered under the colonial *Land Settlement Registration Act* (1925) – a law that had not been implemented in the South under colonial rule (USAID, 2010a). As a result, the Government of Sudan was entitled to all land and natural resources in the South<sup>2</sup>, with no responsibility to consult local communities. For example, the highly contentious Jonglei Canal<sup>3</sup> that intended to divert Nile waters from the Sudd<sup>4</sup> to Sudan and Egypt was able to proceed without local consultation. This project would greatly benefit the North but damage the natural environment and local livelihoods of the southern flood plains (Garang, 1981; Howell, *et al.*, 1988; Shinn, 2005; Ahmad, 2008). Given this, conflict over land management and oil resources was a contributing factor to the outbreak of the Second Sudanese Civil War (Shinn, 2004; Johnson, 2013).

In 2005, the Comprehensive Peace Agreement (CPA) brought an end to the Second Civil War, which caused approximately two million deaths as a result of direct violence, famine, and disease (Shinn, 2004). In the lead-up to the independence referendum, lack of political change made it clear that secession rather than federal unity would be the only way the South could have full control over its natural resources. As such, the post-independence era is marked by South Sudan's struggle to reclaim control over natural resources, particularly oil and land, which was denied to the southern people and government for more than fifty years. This included dramatic changes to land<sup>5</sup> and oil<sup>6</sup>

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<sup>2</sup> Displacement also occurred in the North; large-scale industrialized farms were quite common and required vast amounts of land and labour (See: Sorbo, 1977; O'Brien, 1985)

<sup>3</sup> Construction active between 1979-1984

<sup>4</sup> The Sudd is the largest wetland in the Nile Basin. It is shared between Jonglei, Unity and Lakes States, South Sudan.

<sup>5</sup> The *Land Act* (2009) allows for customary land management and community ownership through a system of decentralization complemented by the *Local Government Act* (2009). It also outlines local consultation requirements.

<sup>6</sup> The *Petroleum Act* (2011) and the *Petroleum Revenue Management Act* (2011) both assert strong stances on community and environmental protection; furthermore, they propose unprecedented transparency in oil revenues, bidding processes, and redistribution.

legislation and the possible re-directing of South Sudanese oil through alternative oil pipeline routes via Kenya<sup>7</sup> or Ethiopia and Djibouti<sup>8</sup>, instead of Sudan.

## *ii. Research rationale*

Access to land has been of ongoing interest to the academic and ‘development community’ as a determining factor of livelihood security (Unruh, 2003; World Bank, 2003; De Wit, *et al.*, 2009; Onoma, 2010), political power (Berry, 1993; Onoma, 2010), and social cohesion (Berry, 2002; Deininger, 2004; De Wit, *et al.*, 2009; Kolers, 2009; Mennen, 2012) and, thus, opportunities for development.<sup>9</sup> In a post-war context, land tenure security and reformation of land systems is crucial to maintaining peace in addition to these development objectives (Unruh, 2005; Unruh, 2006; De Wit, *et al.*, 2009; Mennen, 2012). The flurry of state-building that occurs immediately after conflict offers an opportunity to address long-standing land grievances.

Similarly, the role of natural resources in providing opportunities for economic growth and poverty reduction has been widely discussed (Karl, 1997; Sachs & Warner, 1997; Auty & Mikesell, 1998; Karl, 1999; Bergesen, *et al.*, 2000; Wright, 2001). Countries that are able to harness their natural resources can generate government revenue, import essential goods, and pay debts (Auty & Mikesell, 1998), providing a ‘big push’ to begin a traditional development trajectory towards ‘modernization’ (Sachs & Warner, 1999; Wright, 2001). In order to capture the most benefit from the resources, governments of resource-rich countries should implement revenue management schemes and ensure redistribution to fund core services (Engel & Valdes, 2000; Humphreys, *et al.*, 2007; Humphreys & Sandbu, 2007). This is of particular importance for post-conflict or conflict-prone countries where unfair division of resources can lead to unrest (LeBillon, 2010; Lujala, 2010; Casertano, 2011).

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<sup>7</sup> ‘The Lamu Port and Lamu-South Sudan-Ethiopia Transport Corridor (LAPSSSET) oil pipeline’.

<sup>8</sup> ‘The Djibouti oil pipeline’.

<sup>9</sup> Understanding that ‘development’ has had a turbulent history of definition and redefinition that has become an overlapping but diverging concept of economics, politics, and social phenomena (Cooper & Packard, 1997). The analysis of the debate regarding what constitutes ‘development’ is out of the scope of this research.

These observations are of the utmost importance to South Sudan, which in July 2011 overwhelmingly voted in favour of independence from the Republic of Sudan. The Republic of South Sudan not only became the world's newest state but also the world's most oil-dependent – upwards of 98 percent of government revenues<sup>10</sup> are derived from petroleum production (Belloni, 2011). As such, the management of oil in general has received a great deal of scholarly attention (Jok, 2007; Yongo-Bure, 2007; D'Aggot, 2008; Carmody, 2009; Patey, 2010; Sullivan & Nasrallah, 2010; Savage, 2013; Patey, 2014). Furthermore, South Sudan must also address the legacy of regressive land policies that enabled widespread displacement and land grabbing – just as hundreds of thousands of refugees and internally displaced persons (IDPs) are returning to their homes. Sound management of the delicate land situation was quickly deemed vital to the outcome of the ongoing peace process in the Sudans (Mennen, 2007; Pantuliano, 2008; Pantuliano, *et al.*, 2009; Leonardi, 2011; Johnson, 2011; Johnson, 2013). Consequently, land management has garnered a great deal of attention (Danne, 2004; De Wit, 2004; De Wit, 2008; Pantuliano, 2008; Shanmugaratnam, 2008; Pantuliano, 2009; USAID, 2010a; Maxwell, *et al.*, 2011).

Despite the recognition of the magnitude of these issues, there remain gaps in the research. Since independence, ongoing conflict with the Government of Sudan regarding oil revenue loss compensation and oil pipeline transit fees have led to the repeated shutdown and slowing of oil export, crippling both northern and southern economies. This post-independence conflict has yet to be analysed in the academic literature.<sup>11</sup> Even though oil transport has resumed, tensions between the governments, along with conflict in the oil producing regions have reoriented the Government of South Sudan's priorities and have shed light on the importance of diversifying the South Sudanese economy. Both of the solutions proposed - increased focus on agricultural production and developing a mining industry (DeWaal, 2013; Guardian, 2013) - are highly reliant on gaining access to land that may come at the expense of community members. With peak construction for alternative projects planned between 2013 and 2018, an examination of the root causes of this contemporary oil conflict is timely in both its academic and on-the-ground

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<sup>10</sup> Development aid is not included in these calculations.

<sup>11</sup> Conflict and the potential for an alternative pipeline were briefly mentioned in Anderson & Browne (2011).

applications. The literature on land in South Sudan has been focused on the importance of land reform more generally (Danne, 2004; De Wit, 2004; Mennen, 2007; De Wit, 2008; Pantuliano, 2008; USAID, 2010a; Mennen, 2012) and in specific regions, primarily Central Equatoria State (USAID, 2010b; Leonardi, 2011). To date there has been limited research on land access in Eastern Equatoria, a region that experienced intense violence throughout the war and an area rich in potential for resource and infrastructure development. Understanding these pressures is critical to understanding the impact of resettlement, urbanization, and the influx of external interests in land. This will become even more critical as areas such as Eastern Equatoria are increasingly considered to be rich in mineral and potentially oil resources (Yongo-Bure, 2007; Schomerus, 2008).

### *iii. Research objectives*

This research is divided into two key objectives that are linked in their implications for peace in South Sudan. The first portion of this research aims to examine the nature of oil conflict between the Sudans – specifically, the Southern narrative of pipeline disputes and alternative pipeline routes and how such costly decisions are being rationalized politically. Second, this research aims to gain a general understanding of challenges to land tenure security in Eastern Equatoria, specifically the East Bank. While this research was initially intended to address preliminary construction of an alternative pipeline route to Kenya and the perception of this project by local communities in Eastern Equatoria, this infrastructure project has experienced repeated delays. Construction has begun in Kenya and is now anticipated to commence in South Sudan October 2014, unless the project experiences any additional unforeseen delays.

### *iv. Organization of thesis*

This thesis is divided into three distinct manuscripts that respond to the proposed research questions. Examining the dominant narrative of economic incentives for peace, Chapter Two addresses the extent to which the dominant narrative of ‘mutual economic dependence’ sustaining peace between the Sudans has been effective. Following the Comprehensive Peace Agreement in 2005, there was hope that the Greater Nile Oil Pipeline (GNOP) would incentivize peaceful bilateral relations between North and South.

If this dependence did at times provide such incentives, it also became a source of tension and an instrument of political manipulation for both governments, especially after South Sudanese independence in 2011. After detailing the negotiation process between the Sudans, this chapter asserts that oil pipelines in this situation serve both state-building and nation-building purposes and therefore present serious contradictions between economic and political objectives. This chapter concludes with a summary of the political and economic implications of pipeline conflict.

As a follow-up to the suggestion that pipeline conflict can be linked to both nation- and state-building objectives, the purpose of Chapter Three is to illustrate the role of oil in asserting Westphalian conceptions of state sovereignty in South Sudan. In many ways, this chapter serves to explore a facet of the argument presented in the previous chapter: specifically how contemporary oil transport conflict, in the context of historical resource conflict, has been used throughout Sudanese history to reinforce borders, demonstrate ‘eminent domain rights’, and construct a cohesive population over which to govern (*i.e.*, state sovereignty). How the push to demonstrate sovereign power has complicated a post-referendum ‘sovereignty exchange’ (Cooley, 2000) for the use of northern pipeline routes is then explored. This chapter calls attention to the ways in which transboundary oil pipelines create distortions in international relations more broadly, in addition to commenting on the specific nature of oil transport and secession in the Sudanese case.

As demonstrated in Chapters Two and Three, the exclusionary management of natural resources by the Government of Sudan throughout the First and Second Sudanese Civil Wars has had a profound impact on the manner in which the Government of South Sudan has managed its oil wealth. Chapter Four examines how the historical context of natural resource management has also manifested at the local level. ‘Land belongs to the community’ emerged as a southern call-to-arms during the Second Sudanese Civil War. After the war came to an end in 2005, the newly instated southern government moved quickly to recognize local traditional authority over land and resource management. While conflict has certainly put enormous strain on these customary systems, the influx of returnees, increased urbanization, and the need for investment continues to change the

tenure landscape in the post-war era. Chapter Four uses household survey and interview data collected in Juba and Torit counties, South Sudan to shed light on the local experiences of gaining access to and securing land after the Comprehensive Peace Agreement was signed in 2005. Despite being of common ‘traditional’ practices and authorities, studied communities have demonstrated a wide degree of variation in terms of land access and the negotiation of external land pressures, such as private interests. Rather than arguing for or against the efficiency of legal pluralism generally, this research points towards a need to reconsider the method for both land titling and recognizing communities’ traditional authority in this rapidly changing environment. In recognition of the light treatment of research methods and research limitations in the three manuscripts, a more detailed overview of fieldwork is provided in Appendix 2.

#### *v. Conclusion*

In many ways, these papers are about highlighting the immense difficulties that cannot be ‘solved’ by a peace agreement or by secession given the political, economic, and social complexities of the post-war era. South Sudanese independence came as a struggle for state control over natural resources (Johnston, 2013), but was ultimately fuelled by local discontent over the same issues. Presently, resolving both oil and land problems are part of a bigger process of building peace at the international, regional, and local levels. On a superficial level, these three manuscripts fall into the normal categorization of African studies, ‘the African state’ and ‘local communities’ as two distinct levels of analysis and two distinct discourses (Grawert, 2010). But, together, these papers intend to draw linkages between these levels of analysis by highlighting the contradictions within the state and within local communities in the context of regional factionalism, ‘ethnic’ tension, private interests, and global peace building and aid enterprises. Although the discussion in the following three chapters takes a critical stance on natural resource discourse, after fifty years of analysis on how war in the Sudan has shaped East Africa and the Horn, it is a great privilege to consider how peace will shape the region in the coming years.

## II. PIPELINES THAT BIND: TESTING THE ECONOMIC RATIONALE FOR PEACE BETWEEN THE SUDANS<sup>12</sup>

### *Introduction*

Over the last decade, a popular notion has emerged: if natural resources once played a role in a conflict, then they can be harnessed to build peace (see: Shankleman, 2006; UNEP, 2009; Batruch, 2011; Lajula & Rustad, 2012). This argument follows two trajectories. First, that natural resources can fund peace processes, including reintegration of combatants, improvement of public service provision, and encouragement of institutional reform (Lajula & Rustad 2012). Second, that resources can be transformed from a liability to an asset, which can be achieved by curtailing resource-based belligerent funding, addressing resource-related grievances and attaching opportunity cost to conflict by ensuring that all parties benefit from a ‘peace dividend’ (Wennmann, 2011; Beevers, 2012; Altman, *et al.*, 2012). This neoliberal approach to peace seeks to maximize collective interests through individual economic incentives. It follows that the idea that conflict ‘will not occur if those who invest in it do not expect the returns from war to be higher than the returns from peace’ (de Soysa, 2012: 440). In short, by ensuring all parties can access some level of benefit from the natural resource in question, a rational ‘invisible hand’ should push actors towards peace (de Soysa, 2012). This simple cost-benefit analysis has led some to suggest that the mutual interest of maintaining oil production in the Sudans should bind them to peace in the post-independence era (Batruch, 2011; Casertano, 2013). With approximately 70 percent of proven oil reserves lying in the South and nearly all transportation and refining infrastructures remaining in the North, cooperation would be paramount to either party collecting revenue.

Yet, on 23 January 2012, a short six months after southern independence, the Government of South Sudan (GoSS) declared the suspension of oil production due to conflict owing to transit fees with the government of Sudan (GoS) for the use of the northern oil pipelines<sup>13</sup>. This suspension appeared to be broadly supported by the South Sudanese population, who denounced Sudan’s ‘theft’ of southern oil. However, the

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<sup>12</sup> This manuscript was coauthored by myself and Dr. Philip LeBillon. Please see prologue for more information.

<sup>13</sup> The pipelines include the GNOP (1999) from the Melud and the PetroDar pipeline (2005) from the Melut Basin.

decision shocked the international community since GoSS relied on oil exports for about 98% of its fiscal revenues on oil exports and the new nation had no shortages in demand for these revenues in the post-war reconstruction effort.<sup>14</sup> Instead of quickly moving to resolve the impasse with Sudan, the GoSS pursued alternative pipeline plans with its eager East African neighbours, plans that would come at an estimated cost of 3.5 to 6 billion USD. Despite the ensuing economic crisis, oil did not flow north again until April 2013. Yet hopes of bilateral ‘normalization’ were short lived. Only weeks after production restarted, the GoS threatened to shut down the pipelines again should GoSS continue its alleged support for rebels in the North (Moro, 2013).

Rather than becoming a guarantor of peaceful bilateral relations and accelerator of economic development, the northern pipelines became objects used to gain political leverage by both sides. While South Sudanese independence came with little clarity over revenue loss compensation, transit fees, and revenue sharing that has undoubtedly complicated the post-independence period,<sup>15</sup> the tensions represented more than a weak agreement. Oil shutdown demonstrated the difficulty of resolving decades of unresolved political struggle and conflict over the nature of petroleum ownership. It appeared both parties were willing to risk domestic and regional stability to prove their point – a willingness that undermined credibility and support from donors increasingly exasperated by what they considered brinkmanship politics with severe financial costs.

Sudan has experienced two civil wars between North and South, the first one immediately after independence from 1955 to 1972, and the second from 1983 to 2005. The control of the burgeoning oil industry is considered to have been a factor in the start of conflict. And throughout the war, particularly the second half, oil development had been the cause of mass displacement and widespread human rights abuses (HRW, 2003). However, oil wealth sharing agreements had also brought the warring parties together at

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<sup>14</sup> A senior World Bank official commented to other donors that ‘the decision was shocking and that [GoSS] officials ... had not internalized nor understood the consequences of the decision’, see: ‘Briefing by Marcelo Guigale, World Bank Director of Economic Policy and Poverty Reduction Programmes in Africa’, 1 March 2012, <<http://paanluelwel2011.files.wordpress.com/2012/05/world-bank-south-south-economic-analysis.pdf>> (24 March 2014).

<sup>15</sup> Proven reserves are estimated at 3.5 and 1.5 billion barrels for South Sudan and Sudan, respectively, with 75% of total peak production of 0.49 million barrels per day in 2010 coming from South Sudan, see: *Energy Information Agency*, ‘Sudan and South Sudan’, 5 September 2013.



various points in the conflict. Oil had first united the GoS and Sudan People's Liberation Movement/Army (SPLM/A) splinter groups in 1997-9 via the Khartoum Peace Agreement, enabling oil field development in Unity state. Oil revenue sharing also incentivized peace in 2004-5 as part of the Comprehensive Peace Agreement (CPA) between GoS and a re-united SPLM, eventually leading to South Sudan's independence in 2011. Thus oil can be understood as offering a strong economic rationale for the North and the South to repeatedly go back to the negotiating table to sustain oil flows. Yet in light of acute tensions over revenue division and security issues since independence, the 'political rationality' of avoiding northern oil routes through an alternative pipeline route seemed to trump the extreme economic costs.

This paper seeks to contribute to ongoing debates regarding infrastructure development and high-value natural resources as economic peace incentives, focusing on the potential for transboundary oil pipelines in the Sudans to act as 'peace pipelines'. We begin by reviewing the literature on oil and conflict and the limited literature on transboundary oil pipelines. We then develop the concept of 'peace pipelines' by moving to our case study of oil transport between Sudan and South Sudan, starting with brief historical overview of the oil sector. We then revisit the applicability of the 'peace pipeline' argument by touching upon economic motives and opportunities (assuming economic rationality is indeed prevailing) and then questioning the prevalence of economic rationality over political calculation in this instance. Finally, we conclude by considering what the unique circumstances of the Sudan-South Sudan case study can offer the high-value natural resources and peacebuilding discourse. We suggest that the northern pipelines through Sudan serve a dual purpose as a 'state-building pipelines' or 'peace pipelines' and, on the other hand, serve more politically motivated interests of 'nation-building'; a costly but provocative symbol of southern independence from the North. More broadly, we suggest that the 'peace' analysis of pipelines (and perhaps resources more broadly) must thus be understood as serving a dual purpose: state-building (funding core services and institutions) and nation-building (creating a sense of unity and consolidated state power). Furthermore, we assert that, by focusing solely on state-building under the economic incentive model, any peace achieved will be tenuous, especially if nation-building

agendas come as a result of recent or contested sovereignty; a quarrelsome relationship with the transit country; and/or other incentives to (mutually) leverage economic stability (*e.g.*, to further other unrelated negotiations such as trans-boundary security).

### *Oil wars and peace pipelines*

Oil is frequently considered a risk factor for armed conflicts. Most popular accounts focus on the relative scarcity and strategic character of oil, emphasizing its uneven distribution, high rents, and military importance. A valuable “prize” for importing countries, large corporations, and domestic political actors, oil wealth is thought to intensify geopolitical struggles, occasionally resulting in “oil wars” (Shaxson, 2007; Klare, 2008). Recent academic studies have sought to nuance and qualify these accounts by better identifying relations between oil and armed conflicts, and demonstrating some “peaceful effects” of oil wealth. Arguments about high-value natural resources and war rest on notions of vulnerability to, risk of, and opportunity for armed conflicts – which we apply here to oil (LeBillon, 2012). A country’s oil abundance and dependence are generally both found to increase the risk of armed conflict (Fearon, 2005; Ross, 2006). For the purposes of this paper, we divide these accounts into the oil curse, oil conflict and conflict oil arguments.

The “oil curse” argument suggests that oil dependence negatively affects the quality of institutions and results in economic shocks and long-term underperformance, increasing *vulnerability* to armed conflicts. The “oil conflict” argument posits that presence and exploitation of oil deposits increase various forms of violence, ranging from disputes over rent allocation and environmental impacts, to secessionist wars and international hostilities over the control of oil. Yet, on an aggregate level, very high abundance<sup>16</sup> seems to offset the risks associated with oil dependence – a finding consistent with broader findings that higher income lowers conflict risk,<sup>17</sup> though recognizing cases of instability or stability are unlikely to be *solely* dependent on oil. Finally, according to the “conflict oil” argument, oil shapes the tactics, opportunities, and behaviour of belligerents

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<sup>16</sup> Measured as oil revenues per capita

<sup>17</sup> Brunschweiler & Bulte (2008) and Basedau & Lay (2009) argue that the apparent link between oil dependence and war is the result of the increasing effect of war on oil dependence.

by affecting their finances (e.g. whether oil is ‘lootable’ or not) and influencing their relations with local populations and external actors (Lujala, 2010). Oil wealth is positively associated with secessionist conflicts through a combination of pre-existing nationalism and oil-related grievances fostering identity-based opposition (Basedau & Lay, 2009; Casertano, 2012) - with local resource abundance the risk of secessionist conflicts increases, but not that of governmental conflict (Sorens, 2011). Higher ethnic heterogeneity exacerbates the onset risk of ethnic armed conflict in oil rich countries and can extend the length of war, regardless of whether they are located in oil regions or not (Wegenast & Basedau, 2013).

To sum up research findings, oil can increase the onset, duration, and deadliness of armed conflicts; however, these effects are conditional (LeBillon, 2012; Basedau, et al., 2013). Critics of the “oil wars” argument have rightly pointed to the stability of many “petro-states”, with some suggesting that oil wealth can help buy peace via patronage and repression by domestic or external security forces (Basedau & Lay, 2009; Fjelde, 2009). If most studies of oil and conflict risk have focused on oil wealth, a subset has focused on the consequences of resource infrastructure, most notably the role of pipelines in lowering or exacerbating tensions between neighbouring countries.

### *Pipelines that bind*

Framed by Kantian ideals of ‘peace through trade’, cross-border infrastructure development facilitating trade is seen as both a conduct and incentive to foster collaboration and deter conflicts (Dorussen and Ward 2010; Hegre, Oneal and Russett 2010). If oil and gas pipelines have generally been presented as a source of conflict, Ali notes that there is ‘compelling evidence to suggest that pipelines can encourage cooperation if there are clear policy interventions to integrate the development of energy infrastructure within a broad economic and security framework’ (Ali 2010, 5; see also: Kandiyoti 2008). While fully domestic pipelines present different obstacles, trans-boundary pipelines are complex to set up, often cost billions of dollars and demand some level of trust between trading partners (Omonbude 2010). Negotiating and committing to building a pipeline is thus likely to contribute to a rapprochement between neighbouring

countries throughout the project development stages. Peace affects may also be seen locally for the domestic portion of a pipeline: the central government will have an incentive to reach out to regional political parties and/or local communities through whom the pipeline will traverse in order to gain their consent. Regional or local peace deals may be passed to that effect and economic benefits and political representation may be offered for cooperation.

Once built, pipelines can secure long-term benefits such as massive revenues and energy security, which should constitute a powerful economic rationale for sustained peace or at least incentives for conflict resolution – here the cost of stoppage should act as a deterrent proportional to revenue dependence for exporting countries and energy dependence for importing countries. From the perspective of the central government, ‘peace pipelines’ would foster stable inter-governmental relations premised on mutual benefits derived from commercial activities. As noted in the existing oil curse, oil war, conflict oil arguments, revenues can be used for ‘strategic spending’ – now on both sides of the border to limit conflict. Peace incentives would be particularly strong for gas exports, as there are fewer alternative transport options for gas than for oil - even if the rise of LNG has brought much flexibility through maritime transports and diversity in terms of LNG consumer markets, despite its high infrastructural costs (Dietl 2005). Even so, the costs of developing oil pipelines present a substantial barrier to alternatives as well; pipelines have high sunk-costs and long infrastructure lifespans, which make unnecessary alternative routes uneconomical (Omonbude 2009). Despite these arguments in favour of the peace pipelines argument, also several caveats and counter-arguments, as discussed below.

### *Pipelines that clash*

The basic argument that pipelines will bind parties and thus create a ‘peace effect’ faces several challenges. Oil pipelines contribute to the three dimensions relating oil and conflict mentioned above. Increased oil revenues and revenue dependence resulting from successful export projects may aggravate the ‘resource curse’, particularly for countries experiencing a rapid boom in a contest of divisive politics, either domestically, or

internationally. Pipeline development is often characterized by militarization, especially in the conflict-affected areas or when faced by local or regional opposition where sometimes the ‘reaching out to regional parties and local communities’ is not approached as a negotiation. Domestically, central authorities may seek to violently displace or ‘pacify’ local communities, thereby exacerbating human rights abuses and perhaps prolonging or even initiating armed conflict. The infrastructure laid out for the pipeline, such as roads, can also be used opportunistically to increase government security presence and repression.<sup>18</sup> This can result in an exacerbation of oil conflicts, extending the potential for conflict to communities located far from production areas but who are adjacent to the pipeline (Kandiyoti 2008). Pipelines can also become opportunistic targets for sabotage, racketeering or embezzlement by armed groups thereby ‘adding fuel’ to a pre-existing conflicts on both sides of the border.

Oil pipelines can also alter the expected ‘obsolescing bargain’ (Vernon 1971) wherein, instead of power shifting back to the producer state from the petroleum firm after a pipeline is constructed solely with one state, power shifts instead to the transit country – who experiences greater bargaining power as their political will becomes necessary for production and export (Stevens 2009). This uneven relationship is therefore much different than *trading* relations between producer and consumer. In the case of trans-boundary pipelines, the transit country collects sovereign rent as payment for passage via its territory.<sup>19</sup> In this sense, the transit country only gains revenue if the infrastructure is functioning. As discussed below in the case of the Sudans, this relationship risks being all the more tense when: (i) sovereignty of at least one of the states is itself disputed or recent; (ii) the transit country is perceived as predatory, including from a historical perspective; (iii) tensions between the two countries can push either or both parties into using this dependence as a (mutual) punishing instrument, especially when the export revenues or transit fees are proportionally high.

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<sup>18</sup> On the cases of pipelines in Burma/Myanmar see: Carroll and Sovacool (2010) and on Colombia see: Dunning and Wirpsa (2004).

<sup>19</sup> Arguably the relationship between is also distorted by the concept of ownership rent, as seen between landowners or local communities and central states claiming exclusive rights to a resource.

Governments who have been coerced into accepting a pipeline by a third party might also limit any potential peace effects, for example, through aid from a major foreign donor and financial pressure from International Oil Companies (IOCs). A party can also accept a pipeline under false pretence, knowing that it will not authorize its operationalization or use it as a bargain chip in bilateral or multilateral negotiations. This would mask a genuine rapprochement while increasing opportunities for future tensions with other parties.

Pipeline construction can also reflect a central government's sense of vulnerability to conflict or preparation for conflict rather than a long-term peace-building project. In its attempt to secure access to international markets and provide flexibility in case of war with neighbouring countries, Iraq built four major pipelines that ran through all neighbouring countries (except Iran). All these pipelines with the exception of the line through Turkey were subsequently closed as a result of tensions with the revolutionary Ba'athist regime in Baghdad (Alnasrawi 2002).<sup>20</sup> However, it is important to note that in most cases, multiple or competing pipelines are uneconomical due to the high barriers of entry, for example high capital costs and technical requirements (Omonbude 2009).

Pipeline routes can also often reflect multiple objectives and interpretations, therefore it is difficult to establish whether a pipeline will be interpreted by neighbouring countries as a peaceful endeavour or to accomplish other goals. This extends to neighbouring countries who are not directly involved in the project itself. For example, the Soviet Union's 'Friendship' pipeline bringing oil from the Urals to the western frontier of the Eastern block in the 1960s not only brought cheap oil to East European satellite states but also reinforced their dependence on Soviet oil while raising strategic concerns among the US military (Cain 2013). Choosing between different routes can also become a tense geopolitical exercise, as seen in pipeline routes between Central and South Asia and deliberation whether these should involve Iran and Afghanistan.<sup>21</sup> Thus, while a pipeline

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<sup>20</sup> On the exacerbation of conflict risk by revolutionary petro-states (See: Colgan 2013).

<sup>21</sup> Dubbed a 'peace pipeline ... [and] landmark of regional cooperation' by (former) Iranian President Ahmadinejad, the Iran-Pakistan gas pipeline was also portrayed as a rebuff of US opposition to it.

may shore up relations with some countries, it may simultaneously increase tensions elsewhere.

Finally, pipelines may be the result of peaceful relations rather than a means to achieve peace regardless of economic incentives for trans-border oil flows. Thus, pipelines do not bring peace but peace may allow the rapid construction of a pipeline. Reflecting on delays in building a trans-Caucasian pipeline in the mid-1990s, early expectations of a pipeline bringing peace were replaced by a more circumspect view that ‘peace will lead to a pipeline’; a shift that highlighted ‘the loss of a sense of interdependence ... [among former Soviet republics, and thereby] a major deterring factor in conflictuous [sic] interstate relations’ (Aliyeva 1996).

As discussed below for the Sudan-South Sudan case study, the peace effects of oil pipelines thus need to consider the geographical and historical context of pipeline development, the relative situation of ‘partner countries’ especially in the relation to land-locked and transit countries, and the broader political and economic incentives at play. We will see from the case of the Sudans that pipelines can simultaneously have ‘peace pipeline’ and ‘conflict pipeline’ rationales. We demonstrate that pipelines can play an important material role in terms of fiscal management (through revenue from, but also capital investments into oil shipping) and a symbolically important political role in terms of national identity and asserting state power.

### *Oil and the two Sudans*

Sudan’s history of oil development stems in part from the Yom Kippur war and the oil crisis of 1973 that led oil companies to look for new reserves outside OPEC countries and the US to reach for new allies (Patey 2007; Ayers 2010). This geopolitical context led US oil company Chevron to explore in Sudan following the 1972 Addis Ababa Peace Agreement, which ended the First Sudanese Civil War.<sup>22</sup> Following the discovery of commercially viable oil reserves in Upper Nile and Southern Kordofan in 1979, Khartoum began to distance the people in the southern government from key resources,

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<sup>22</sup> Chevron’s move was also supported by a U.S. government opposing neighboring ‘communist’ Ethiopia.

assuming full control over oil revenues through ‘policies of exclusion’ (Kok 1992, 107). Administrative boundaries dividing the North and the South were reorganized to incorporate oil deposits into the northern region (Bedal 1986; Patey 2007)<sup>23</sup> Contrary to demands by southern politicians to build a refinery in Bentiu and a crude oil pipeline connecting Bentiu to Mombasa, Kenya, the North proposed a refinery 200 kilometers north of the administrative boundary and a pipeline to the Red Sea (Hutchison 1996; Ayers 2010), thereby excluding the South from petroleum infrastructure – moving ‘southern oil’ to export via the North (Figure 1).



Figure 1: *Significant border towns*

As a result of the Second Civil War commencing in 1983 and subsequent suspension of oil operations by Chevron (See: Patey, 2007),<sup>24</sup> plans for the refinery and the pipeline were abandoned. It is important to note that management of oil was a major contributing factor to the commencement of hostilities in 1983 (Patey, 2007). However, by the mid-1990s, investment interests by oil firms grew, most notably from Talisman and Chinese, Malaysian and Indian state firms (See: Patey, 2014). While oil was initially seen as a contributing factor to peace, the push from oil firms, particularly Talisman and the Chinese National Petroleum Company (CNPC), to build oil pipelines pressured Khartoum to reach regional peace agreement allowing for construction. In 1997, the GoS signed the Khartoum Peace Agreement with various splintering factions of the Sudan People’s Liberation Movement/Army (SPLM/A)<sup>25</sup> The Khartoum Agreement provided oil revenue sharing between the central authorities and the Southern factions operating in the oil producing states. The Agreement helped suspend hostilities around

<sup>23</sup> Though the separate administrative region of Unity State was not created until 1994.

<sup>24</sup> In 1984, southern secessionist group killed three Chevron employees prompting Chevron to suspend operations. This attack was not the first incidence of violence directed at Chevron. In 1982 Nuer rebels took five employees of a Chevron sub-contractor hostage with the intention of demonstrating that ‘oil belonged to the southerners’ (HRW 2003, 145). The following year, at the Chevron base camp in Bentiu, an employee was killed during an attempted robbery (*Ibid.*).

<sup>25</sup> The southern coalition mostly consisted of Nuer forces led by Riek Machar from Upper Nile and Unity Province, but also Lam Akol and Kerubino Kuanyin Bol who separated from the SPLM/A in 1991.



some oil fields thereby encouraging oil firms to invest (Rone, 2003) but also allowed Sudanese forces to displace populations with impunity, thereby enabling companies to build oil infrastructure (Reeves, 2003).<sup>26</sup> In this sense, oil led to a period of ‘regional peace’ but this period was also marked by large-scale displacement and violence towards directed at communities who needed to be removed from the oil producing regions (HRW, 2003). The Greater Nile Oil Pipeline (GNOP) from Bentiu to Port Sudan was completed in 1999. Together with the construction of a high-capacity refinery in Khartoum, chronic oil shortages in the capital ended. Within a year of pipeline construction, oil became the single most important export industry in the country (Pantuliano, *et al.*, 2009), transforming Sudan from a net oil importer to one of the top oil producers in Africa. The GNOP allowed the resource to enter global markets for the first time, providing incentive for further, more profitable exploration, and improved infrastructure provided access to previously idle concessions (Patey, 2007): only a few years later the Petrodar pipeline opened the eastern oil blocks to export through Port Sudan, unlocking Sudan’s most productive oil fields. In the oil provinces, military pressure from the SPLA, repression by government forces and its allies against local populations, infighting between southern factions, and the reluctance by Sudan’s government to respect the Khartoum Agreement led to renewed hostilities – leading some to claim that oil revenues stood as ‘the greatest obstacle to the resolution of the conflict’ (Reeves, 2003: 167; also: Interview, Taban Deng, former Governor of Unity State, 2001). Fast-rising oil revenues consolidated the GoS’s security apparatus (the government now had more revenues to fund southern repression) (HRW, 2003; Reeves, 2003; Sharkey, 2004; Ayers, 2010) and the importance of the northern pipeline to the GoS made it an easy target for sabotage (HRW 2003), but it also provided incentives for peace negotiations between North and South as well as among southern groups.<sup>27</sup> As well, general conflict fatigue (*cf.* Murphy, 2001; Young, 2003), international pressure through human rights organizations to end the conflict and oil-related violence, and the mounting pressure following 11 September 2001 and increasing strategic interests from the United

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<sup>26</sup> Though the supposed “peace” was marked by brutal population displacements and aerial bombing (See: HRW 2003; Batrauch 2011).

<sup>27</sup> Oil development continued, however, in part because of the prospect of rising prices, lower exposure to reputational risk for Western juniors and Asian para-statal oil companies push for access to oil reserves. In contrast, major western companies holding concessions refrained from re-investing despite offers of military support by the GoS. Interview, European oil major company manager, June 2006.

States added additional pressure for a negotiated solution (Volman, 2003; Simons & Dixon 2006; Jok 2007; Pantuliano, *et al.*, 2009; Ayers, 2010; Cockett, 2010; Roldansen, 2011).

The Comprehensive Peace Agreement (CPA) in 2005 between the GoS and the SPLM established the Government of National Unity (GNU), a cooperative government based on two regional governing bodies: the Khartoum-based National Congress Party (NCP) and the Juba-based SPLM. Under the petroleum provisions of the CPA, the South would be entitled to 50 percent of revenues from oil produced in the southern provinces (Upper Nile and Unity states), while producing regions were entitled to 2% of revenues; however, Khartoum would remain in control of revenue allocation (Global Witness, 2009). The South did receive substantially more revenues than it did previous to the CPA (see: Table 1: Petroleum Revenue, 1999-2013), but, similar to the post-Addis Ababa Agreement revenue transfer arrangement, Khartoum was accused of denying the south its full portion of revenues (Verhoeven & Patey 2011; Global Witness 2009). By 2009, and contrary to John Garang's vision for a 'new' united Sudan, the SPLM began to promote the idea that southern independence was the only way the South could truly gain equal footing with the North and have adequate control over their resources. It was unclear in the case of independence whether the revenue-sharing formula established under the CPA would be retained; and, if not, what fees would be expected for use of the northern pipeline routes (Tellnes, 2006; Rolandsen, 2011). Detailing the ownership of resources was also postponed (Rolandsen, 2011).

In July 2011, the Republic of South Sudan not only became the world's newest state and also the world's most oil-dependent: upwards of 98 percent of government revenues (outside of development aid) are derived from petroleum production. Despite claims that Khartoum was distorting oil revenues in the CPA-period, between 2005 and 2011 the GoSS accrued about \$13 billion in oil revenues, or \$192 per person annually – evidence of the size of the industry and the importance for the South Sudanese economy. About 75 percent of production and 70 percent of proven reserves now rest within South Sudan, but nearly all petroleum infrastructure lies in the North (Belloni, 2011). Thus, though South

Sudan gained political independence in 2011, economically the state remains completely dependent on the North.

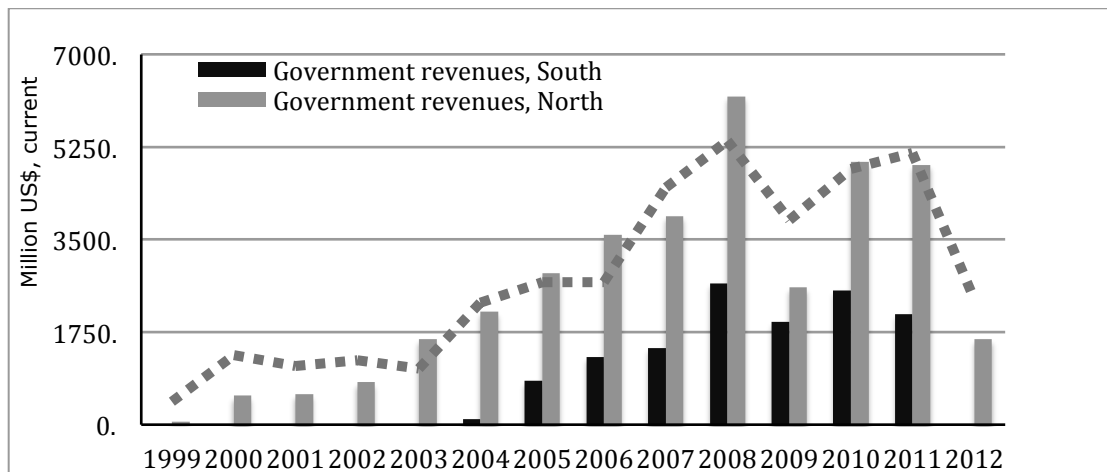
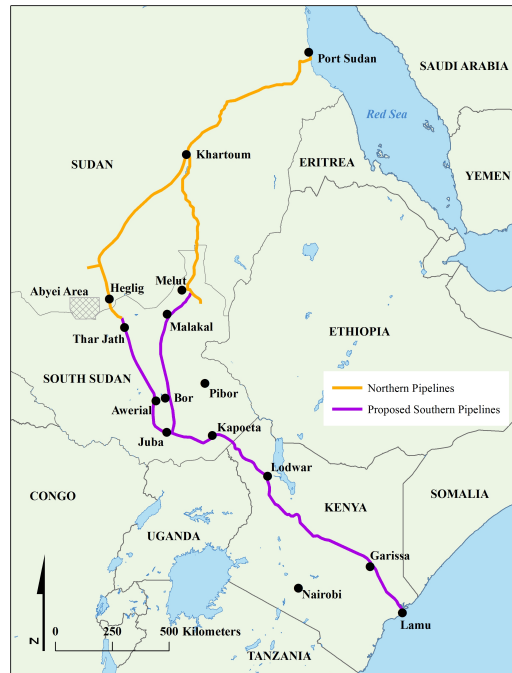


Table 1: *Petroleum Revenue, 1999-2013*<sup>1</sup>

As compensation for lost oil fields and rents and given the inability for the two governments to reach a negotiated solution, the GoS began charging ‘transit fees’ over 30 times the average market rate – a rate that GoSS refused to pay. In response to South Sudan’s failure to pay, the Sudanese government began diverting an estimated \$815 million in Nile Blend crude to the el-Obeid Refinery in Khartoum and seized four loaded oil tankers awaiting export in Port Sudan until the South agreed to pay transit fees owed in arrears (New York Times, January 23, 2012). Following these disputes, the GoSS made a unilateral decision to suspend oil production and export as of January 2012.

By March 2012, the GoSS had reached an agreement with the Kenyan and Ethiopian governments to build a southern oil pipeline route from South Sudan’s Unity State to the Kenyan coast (See: Figure 1: Northern pipelines and the LAPSSSET route). The pipeline would constitute the economic backbone of the larger Lamu – South Sudan Ethiopia Transport Corridor (LAPSSSET), a \$20 billion mega-infrastructure project. South Sudan is expected to be the main financial contributor to the oil pipeline and South Sudanese petroleum the focus of the Lamu Port and refinery. The pipeline is expected to cost between \$5 and \$6 billion.

Figure 2: *Northern pipelines and proposed LAPPSET pipeline route*



Nearly a year after signing the Memorandum of Understanding (MoU) with the Government of Ethiopia and the Government of Kenya for LAPSSET, the GoSS also began exploring alternative oil transportation routes through Ethiopia and Djibouti. Following the completion of a Toyota Tsusho feasibility study on the Kenyan route, the GoSS commissioned its own set of studies: one for the Kenyan route and the other for the Ethiopian option. The studies were completed July 2013 but results have not yet been officially released, pending the approval of the South Sudanese Council of Ministers. However, there are hints that the Ethiopian route would come at a lower cost due to existing (but limited) port infrastructure, more suitable topography, reliable power sources, and ease of negotiation with the Ethiopian government (Interview, Ministry of Petroleum and Mining, July 2013) - but keeping in mind that all of the alternative options came at a much higher cost than resuming northern export.

While the GoSS was still reviewing the specifics of the alternative routes, both governments were in negotiations through the African Union High-Level Implementation Panel for Sudan and South Sudan (AUHIP) and President Salva Kiir came under growing

pressure from the US and Chinese governments to accept a deal with GoS (Moro, 2013). Remarking on this pressure, a South Sudanese state oil company official stated in May 2012 that the pressure from Washington was an attempt to force GoSS ‘to bail out the Republic of Sudan to avoid that country from collapsing ... [and] becoming a new Somalia.’ Talks under the auspices of the AUHIP were concluded on 27 September 2013 with presidents Kiir and Bashir signing a set of nine agreements, including an oil agreement. Further deadlock resulting from GoS’s security concerns lead to more talks and an implementation plan in March 2013. Oil production resumed in April 2013 and the first tanker of southern oil departed in July (AUHIP 2013). Yet in a public address on 8 June 2013, President Omar Al-Bashir ordered the renewed shutdown of northern oil pipelines. This announcement followed a series of allegations that Juba was supporting one of the largest rebel movements active in Sudan, the Justice and Equality Movement (JEM)<sup>28</sup>, following attacks to a feeder pipeline near Heglig (*BBC News*, June 8, 2013). In accordance with the cooperation agreements signed earlier in 2013, an official 60-day notice of the intention to close pipelines was issued on 11 June 2013 (*Reuters*, June 11, 2013). After another series of negotiations, Sudan and South Sudan managed to prevent complete shutdown, but production numbers were reduced by approximately 30 percent.

### *Pipelines and fluctuating peace incentives*

The interplay between peace, conflict, and natural resource development in Sudan has been a storied one. At different points, oil has been both an incentive for peace and a driver of conflict – sometimes simultaneously in different spheres. For example, in the oil producing regions, oil exploration resulted in widespread civilian-targeted atrocities (HRW, 2003). Yet, oil export has, at times, incentivized local peace between militias; for example, the GNOP could never have been constructed without the Khartoum Peace Agreement in 1997 and militia support. The proliferation of oil activities after the GNOP was constructed led many proponents of exploration to highlight the peace effects of oil. Lundin, former Block 5A concession holder, maintained that:

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<sup>28</sup> The Justice and Equality Movement (JEM) is considered one of the two main anti-government militias active in Darfur. They were active in the region alongside the Sudanese Liberation Army/Movement (SLM/A), not to be confused with the Sudan Peoples Liberation Army/Movement (SPLA/M). JEM has been supported by at different times by South Sudan, Eritrea, Chad, and Libya since it’s formation in the early 2000s.

Oil represented an incentive for peace in so far as oil activities could not be pursued in a war context. He [Lundin Board of Directors, Carl Bildt<sup>29</sup>] also underlined how oil provided the material basis for a sustainable peace. The company's repeated suspensions of activities were proof that oil activities could not flourish in a conflict situation [...]. (Batruch, 2011: 13).

Oil revenue from the GNOP and subsequent northern pipelines allowed Khartoum to pay off debts, increase imports and purchase arms to solidify power. Oil, once sequestered through a pipeline for example, can be geographically isolated for the benefits of one party (LeBillon, 2010). Oil pipelines changed the nature of conflict by altering incentive structures. Reliable revenues led to the solidification of state power and peace negotiations became more appealing both for the maintenance of export for the North and the seemingly unending war for the South.<sup>30</sup>

In the post-independence period, the incentive structure surrounding oil pipelines and export shifted again and it is important to consider why economic stability seemed suddenly less important in this period. Indeed, the severe economic consequences were felt on both sides of the border.

In Sudan, the conflict prevented the state from collecting any transit fee revenue. By June and July 2012, the economic consequences (primarily austerity measures) of the oil shutdown became apparent and protests sprouted daily in Khartoum and other cities across the country (HRW, 2013). Only a year after southern independence, the Sudanese pound was devalued by 66 percent and by mid-2013 the currency was devalued again as inflation reached 47.8 percent (IMF, 2013). Following a fuel subsidy suspension in September 2013, energy prices in Sudan doubled and led to large-scale protests in Khartoum, resulting in near 200 deaths and calls to overthrow President Omar Al-Bashir (*Bloomberg*, November 5, 2013). Sudan also risked long-term consequences during the dispute: if a lack of resolution between Khartoum and Juba allows alternative pipelines to go forward, any semblance of a balance of power between the two will have been

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<sup>29</sup> Carl Bildt served as the Prime Minister to Sweden from 1991-1994. He served on Lundin's Board of Directors from 2000-2007 and he was appointed as Sweden's Foreign Minister in 2006.

<sup>30</sup> Total (Block 5B) has remained in Sudan since it purchased the exploration rights for Block 5B. The company was not active during the war and the concession remains largely unexplored. The GoS demonstrated no intention of negotiating until 2002 (See: Jok, 2007).

permanently disrupted and denying oil revenue to the north threatens the NCP regime (LeRiche & Arnold, 2012).

There is also limited economic incentive for alternative oil routes in South Sudan. Various reports suggest that South Sudan possesses enough oil to continue production for as little as five years and up to three decades (Shankleman, 2011) - predictions highly reliant on the recovery factor used to calculate remaining quantities (Patey, 2010). Based on current conservative predictions, the pipeline may not be profitable for South Sudan unless substantial discoveries are made (LeRiche & Arnold 2012). Yet, as pointed out by a South Sudanese official in May 2012, a pipeline may be constructed even without sound economics:

Foreign policy seems to be based on distortions of facts, people who don't know the facts advise top foreign officials. There has been no decent study of the economic rationale of the pipeline, whereby you take reserve x demand x costs? The crooks will make their money one way or another, we cannot do much about that. Look at the political imperative of Nordstream, and there are many other examples of politically driven pipelines. This one is not an exception.

Assuming future oil revenues will be re-distributed, the expense of LAPSSET will come as a trade-off for other domestic priorities for South Sudan. In the immediate term, now that the initial post-independence fervour has settled, the population is demanding the government meet its needs (Deng *et al.*, 2013). In November 2013, South Sudan devalued its currency 34 percent in order to address the widening gap between government and black market rates as a result of oil stoppage (*Reuters*, November 26, 2013) and civil servants had not been receiving wages as a result of South Sudan being unable to make payments on the \$5 billion borrowed during the first shutdown (*Guardian*, November 23, 2013).

Given these disastrous consequences, why did export fail for such a long period? Though 'disagreements over economic disputes should be easier to solve in principle than, for example, identity disputes' (Wennemen, 2011: 228) the fixation on the economic incentives for peace alone is unlikely to change a recurrent dynamic. Here we argue that the Sudan-South Sudan pipeline conflict does not present an easy division between 'economic' and 'identity' disputes – but rather a balance between the two. The following

section explores the political significance of resource control and how pipelines offer a proxy to examine these elements of South Sudanese political discourse.

*Contemporary pipeline conflict and nation-building objectives*

The First (1955-1973) and Second Sudanese Civil Wars (1983-2005) were characterized by southern Sudan resisting northern political domination (Deng, 1995); the historic tendency of the North to exclude southerners from meaningful interaction with the state and to engage in violence against the South throughout this period accelerated the southern nationalist sentiment, which formed along boundaries established by the colonial regime (Wennemen, 2011). In this, the push for southern autonomy or a southern state was premised on a regional national identity of the ‘southern peoples’ who were united loosely by their opposition to the North (Idris, 2005: 50; Rolandsen, 2011). But, in reality, the South demonstrated limited semblance to a ‘nation’ (Idris 2005: 44). Francis Deng argues: ‘[...] without the confrontation with the North [...] and the more recent attempts by the post-independence governments to dominate the southern peoples, there would be no South as a viable political entity’ (Deng 1995, 9). Thus, the ‘southern political identity’ should be considered a somewhat recent creation, born out of inequalities both created and exacerbated by colonial rule and then the subsequent reproduction of it in the post-colonial period (Khalid, 1990; Patey, 2007; Ayers, 2010) – including the concentration of power, infrastructure, and social services in the North (Ayers, 2010). This marginalized identity was being formed well before oil was discovered, but, regardless of the roots of southern nationalism, the concentration of oil in the southern region only served to provide an example of southern marginalization and encouraged southern nationalism (Casertano, 2013).<sup>31</sup> Politically and economically the southern people were being denied their perceived right to control resources within their administrative boundaries – resources that were later used to fund southern repression.

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<sup>31</sup> Initially, southern political leaders under John Garang’s SPLM/A sought to right these inequalities under a ‘New Sudan’ with inclusive governance, with dissenting voices pushing for southern independence throughout the war. During the CPA, it became increasingly clear that a referendum would lead to independence.



More than becoming a semi-autonomous region, the South could now make sovereign demands for resource control. Indeed, as mentioned previously, South Sudan benefited from the most active oil regions falling within their territory. The long struggle for an equal voice with the North was realized. Indeed, ‘nation-building’ discourses around the oil shutdown and pipeline were prevalent among informants. In reference to the shutdown, a South Sudanese oil official boasted that ‘Nobody is bolder than us, we shut down the oil to China’, while Jok Madut Jok, the founder of a leading research institute, remarked in May 2012 that:

Even before it was made official, people at the local level wanted to shut it down, we did seminars and that’s what we heard. When the shutdown happened it was celebrated ... The international community said that this move was ‘foolishness’ and ‘suicidal’, but Southerners think it is crazy to say that it is suicidal, for us it’s about addressing injustice.

Now in South Sudan, everybody is suspicious of each other, how was the money spent, what impacts did it have, etc. [...] But what informs all of this is the history of abuse and exploitation. South Sudan’s decision is not only about reaching a negotiation impasse, it’s about historical feelings, it’s about being told to do this to do that, and that plays immediately into the victimization of the South and the North as victimizers. So now... lots of emotions but also practical strategic reasons: the intransigence of Khartoum on the border areas, so the shutdown was a populist decision: better to keep oil in the ground than hand it over to Khartoum to kill us. Even if we will be hurt by the shut down as the result is still better.

Some donors also understood the attitude of GoSS as politically driven, contrasting it with economic rationality, which would be assumed to prevail in this situation. A Chinese embassy official observed that:

GoSS said it wants economic independence, but economic independence means that you cooperate with your neighbours and develop your economy. From the Chinese experience, the key was to keep the peace for our [economic] development, so keeping peaceful conditions for many decades was crucial. We saw a lot of support [for negotiated peace with GoS] so why South Sudan people support this policy because from our Chinese perspective it is not in their interests. This may be associated with their history: already independent but not enough, [South Sudanese] want to have a complete break... The most important is that they recover from their history of war and stop seeing enemies.

This sentiment has fit with policy and administrative changes to the post-independence oil sector. This can be demonstrated by the South’s push to renegotiate concession contracts, divide oil blocks,<sup>32</sup> legislatively distance itself from Khartoum,<sup>33</sup> and redirect

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<sup>32</sup> While many contracts were renegotiated without problems, Total was informed that its concession block B was set to be divided by the government to speed up exploration thereby providing financial backing for alternative oil routes (*Reuters*, October 3, 2012). As of November 2013, the company had lost a third of its concession (*Reuters*, November 21, 2013).

oil flows through Kenya or Ethiopia and Djibouti as a demonstration of power. Though resource nationalism has traditionally focused on nationalisation of private resource interests, Bremmer & Johnston (2009) would categorize South Sudan's push to as 'revolutionary resource nationalism'. Revolutionary resource nationalism refers to a specific form of resource nationalism emerged as a mechanism to define post-Soviet republics not solely based on a desire to gain more control over domestic resources, but as a broader consolidation of state power (Bremmer & Johnston, 2009). South Sudan has not tried to take ownership of private assets (unlike oft cited cases of Bolivia and Russia), but has, as an assertion of newly acquired state-power, sought to completely realign the oil industry and assert a 'specifically national territorial notion of sovereignty' (Emel, *et al.*, 2011: 71), where sovereignty operationally means having capacity to control natural resources in isolation from external (*i.e.*, northern) actors. In South Sudan, oil is impossible to separate from the state. Oil revenue, representing 98 percent of government revenue, *is* the state; without reliable, steady export basic state functions falter. South Sudan has gained political independence from Sudan but southern economic independence is tenuous at best. In this sense, the North 'dictating' terms of the pipeline is direct economic and political manipulation. The LAPPSET and Ethiopian pipelines offer a physical representation of state power and assertiveness while serving the ideological objectives of anti-North sentiment (*Sudan Tribune*, January 23, 2012) as well as economic sovereignty – an 'independence 2.0.' In the immediate post-independence period, cooperation with the North offered immediate economic incentive for peace and cooperation, but failed to address longstanding political grievances relating to resource control.<sup>34</sup> As the South struggles to address the basic needs of its population, solidify institutions, and calm internal struggles – it was logical for the state to take advantage of 'the euphoria of independence' (Jok, 2011: 2) and the overwhelming anti-North sentiment to advance these political and economic goals, no matter the immediate consequences.

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<sup>33</sup> *E.g.*, The *Petroleum Act*, 2012 and the *Petroleum Revenue Management Act*, 2012 (This piece of legislation was not passed in until 2013 but it dated 2012). It is also important to mention that the *Petroleum Revenue Management Act* was required as a condition for IMF loans in 2013.

<sup>34</sup> The dominant narrative of north versus south can continue to be used as a political tool, but the lack of political unity of each state can no longer be ignored – particularly in light of recent political conflict in the South.

### *Peace and the economically rational ‘invisible hand’*

Economic interdependence is often considered a factor of peace. Often associated with Emmanuel Kant’s concept of ‘perpetual peace’, the idea that trade and economic interdependence can prevent inter-state wars has largely become a consensus within political science (Hegre *et al.*, 2010). Not only trade would reinforce mutual economic interests, but also raise the costs of conflicts by interrupting commercial flow between trade partners. In this view, the ‘invisible hand’ should deter national leaders from engaging in interstate violence when economic incentives for peace are present. But, as mentioned above, economic motives and opportunities associated with trans-boundary pipelines differ from general trade and the producer country and the transit country do not often exist on an equal playing field due to distortions in the obsolescing bargain. High entry costs, limited geographical options, and the association of large rents and energy security concerns mean that, once a pipeline is built, options for alternative routes are undesirable. Large rents mean that, not only are considerable revenues at stake, but oil extraction remains commercially viable even if rents are massively redistributed – unlike a sector with very narrow margins for which even small levels of redistribution would bankrupt some key actors in the commodity chain. Finally, energy security concerns mean that fiscal revenues are at stake as well as the provision of an essential good whereby affordability matters both economically and politically and for which alternatives (such as importing crude or refined fuels) may be very costly. As a result, transit countries may seek to use this position to maximize transit fees beyond what could be considered ‘international market rates’ or the marginal costs of pipeline alternatives. This rent-seeking or extortion behaviour may also reflect broader economic and political calculations. Several factors were at play in the case of the Sudans, which we revisit below.

First, the GoS was seeking to sustain pre-independence revenues by shifting from a share of petroleum rents to high transit fees. Specifically, the GoS obtained 49 percent of oil revenues from Southern fields during the CPA period. In response to the loss of oil fields through succession, GoS demanded a transit fee of US\$32 - 36 per barrel (pb), well above international rates estimated at \$0.5pb and GoSS’s offer of \$1pb. The second

factor was GoS's concern about cross-border security issues and possibly weakening the GoSS more generally and thus leveraging oil transit to obtain political concessions from the South. The GoS repeatedly tied the resumption of oil transit to GoSS ending its alleged support of rebellions in the north, many now under the banner of the Sudan Revolutionary Front. Oil shipments resumed in April 2013, but by June GoS accused GoSS of continued support for rebels in the north and declared, but later postponed a new embargo. Finally, some factions in Juba were playing out the political dimensions of the embargo to rally Southerners against a common oppressor, 'Khartoum', advocating that shutdown was more desirable than accepting the North's demands (*Sudan Tribune*, January 24, 2012). It is important to note in this situation that South Sudan made the decision to shutdown oil production, suggesting that even though splitting the oil rents would provide the South adequate stable revenue, this was politically undesirable. In summary, the economically rational 'invisible hand' played a negative role in this case, precisely because it was operating under a set of political calculations that motivated by both Sudan and South Sudan's intention to drive a hard bargain to establish post-independence export norms.

### *Conclusion*

The larger question this paper grapples with is the challenges of isolating the economic factors of peace and conflict; the operationalization of 'peace pipelines' is not solely dependent on 'getting the economics right'. We link the weakness of 'peace pipelines' to three aggravating political factors that can be applied to other trans-boundary pipelines more broadly. First, when state sovereignty is disputed, recent, or weak, where sovereignty operationally means having capacity to control natural resources in isolation from external actors, a state may attempt to assert its sovereignty through the instrumentalization of oil pipelines – resembling 'revolutionary resource nationalism' approaches (Bremmer & Johnston, 2009). In some cases, this can mean reordering relations with oil companies – but it may also mean reordering and reinforcing relations with other neighbouring states. In the case of high reliance on oil revenues, sensitivities to incursions on real or anticipated revenues can be interpreted as a threat to the viability of the state. Second, the nature of the relationship between producer and transit country is

particularly political when the transit country is perceived as predatory, including from a historical perspective. In this sense, little trust between the parties as well as political incentive from the producer to demonstrate it is not falling into historical patterns of exploitation by the ‘other’ can derail rational economic discussion and other political and economic remain unaddressed. Finally, when historical tensions or conflict is present, mutual reliance on oil export may devolve into proxy warfare – by destabilizing economic wellbeing, state viability becomes more fragile. Pipelines can be leveraged to force resolution on other outstanding issues, particularly when the export revenues or transit fees are proportionally high. From this perspective, pipelines can play a materially important role in terms of fiscal management (through revenue from, but also capital investments into oil shipping), and a symbolically important role in terms of national identity and assertiveness. It is clear that, just as nation-building and state-building can be thought of as conceptually distinct, in practice they are mutually reinforcing (Jok, 2011).

In the case of the Sudans, we have demonstrated that in the immediate post-independence period, political factors have had more control over decision-making than simply the economics of trans-boundary oil pipelines. While the Second Sudanese Civil War could be characterized by ‘combatants not necessarily seeking to defeat the opposing side but rather the fulfillment of economic interests’ (Patey, 2007: 1001), in the post-independence era the project of peace building cannot be approached with prioritizing the economic objectives over hard-fought political gains. In this instance, political and economic fulfillment will be equal factors in incentivizing long-term peace.

Recently, the tune between the two nations has changed yet again. Both governments signed an agreement on 27 September 2013 for \$11pb (including \$1.60 for processing fee, \$8.40 for transportation, and \$1 for transit), and a compensation of \$3.028 billion over the following three and a half years for the continued operation of the northern pipelines. Furthermore, political tensions that have built up within South Sudan have also made for an unusually cooperative stance on southern oil fields. In July 2013, President Salva Kiir suspended his entire cabinet, including his rival Vice-President Riek Machar, and SPLM Secretary General Pagan Amum, who had negotiated oil issues with Sudan.

The dismissal was viewed as an attempt to improve relations with Sudan by getting rid of supposed ‘hard liners’ and to undermine Kiir’s political rivals - chiefly Riek Machar - ahead of the election scheduled for 2015. In December 2013, troops supposedly loyal to Riek Machar clashed with those of President in the capital, Juba. President Kiir qualified the event as an ‘attempted coup’ while Machar denied it (*BBC News*, December 16, 2013; Sudd Institute, 2013b; *Sudan Tribune*, December 18, 2013). This incident led to local conflict that took on an ethnic dimension – only compounded by other political fractures within the SPLM/A. While a Cessation of Hostilities agreement under the Intergovernmental Authority on Development (IGAD) was signed in January 2014, but conflict continues and the oil producing regions repeatedly targeted. Interestingly, the South’s domestic crisis has once again brought Sudan and South Sudan together. The two states have considered joint patrols to protect the industry from yet another shutdown (*New York Times*, January 2 2014) and, superficially, it appears economics have once again brought the countries together. Only continued analysis can determine going forward whether the Government of Sudan has, at the same time as ensuring regionally stability (*i.e.*, the oil wells), it is also contributing and benefiting from the overall political instability in the South.

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Interview 9: Ministry of finance and economic planning, Juba, June 2013.

### III: OIL TRANSPORT AND STATE FORMATION: THE CONTRADICTIONS OF ABSOLUTE SOVEREIGNTY AND TRANSBOUNDARY PIPELINES IN SOUTH SUDAN

#### *Introduction*

The surrender of absolute sovereignty over resources is an essential component in the political economy of transboundary oil pipelines. The producer country must relinquish full control of its resources and redistribute rents extra-territorially and, in turn, the transit country provides the land and security necessary for the pipeline to transverse its territory. Ideally, this ‘sovereignty exchange’ (Cooley, 2000) leads to mutually beneficial outcomes, including revenue and incentive for further political cooperation in cases where states are well-established. Yet, in post-imperial/post-secession states transit pipelines distort the ‘sovereignty exchange’ rationale because there is a greater incentive to demonstrate absolute power over sovereign resources.

Following South Sudanese independence in 2011, almost all oil infrastructures belonged to the North, but nearly 85 percent of oil reserves fell within the boundaries of the South (Belloni, 2011). This unusual split meant that inter-governmental cooperation on oil export was not only assumed, but lauded as an incentive for future cooperation. Both countries had an economic interest in oil leaving the country and therefore both would have an interest in maintaining peace. Yet, immediately following independence, the two countries began to dispute the particulars of this mutual dependence. From January 2012 to May 2013, the Government of South Sudan suspended oil operations amid claims that the Sudanese Government was ‘stealing’ southern oil – both through diversion of southern crude and through transit fees nearly 30 times higher than international standards. As a direct result of the shutdown, the South Sudanese economy contracted by 49 percent (World Bank, 2014; DeWaal, 2014). Before the shutdown, the South relied on oil for 98 percent of government revenues; without the oil South Sudan was forced to borrow nearly US \$5 billion to make up for the shortfall. A World Bank delegation in Juba noted: “The World Bank has never seen a situation as dramatic as the one faced by South Sudan. In [Mr. Guigale’s] view, neither the President nor senior ministers present

in the meeting were aware of the economic implications of the shutdown. He candidly said that the decision was shocking and that the officials present had not internalized nor understood the consequences of the decision” (quoted in: DeWaal, 2014). Consequently, Sudan, who also relies on the transit revenue, experienced rapid inflation (IMF, 2013) and was forced to cut government subsidies - weakening the National Congress Party’s (NCP) precarious political position (Bloomberg, 2013). After a series of negotiations under the auspices of the African Union, oil transport resumed in May 2013, but the political commitment to the agreements were tenuous at best (Reuters, 2013). Disputes continued from June until September 2013 with repeated threats from Sudan to close the northern pipelines.

The decision for both countries to hold each other hostage with oil revenues seems incomprehensible. The political, economic and social consequences of a nearly two-year pipeline conflict is still being felt by both parties. As attention remains on the economic fall-out and peacebuilding implications of pipeline disputes in the Sudans, this particular case provides an opportunity to examine the contradictory political dynamics of transboundary pipelines and recently seceded states.

The purpose of this chapter is to illustrate the role of oil in asserting Westphalian state sovereignty in South Sudan. Specifically how contemporary oil transport conflict, in the context of historical resource conflict, has been used to reinforce borders, demonstrate ‘eminent domain rights’, and construct a cohesive population over which to govern (*i.e.*, state sovereignty). I then demonstrate how the need to show sovereign power has complicated a post-referendum ‘sovereignty exchange’ (Cooley, 2000) for the use of northern pipeline routes. This research attempts to call attention to the ways in which transboundary oil pipelines create distortions in international relations – specifically in post-imperial and post-secession states. I conclude by adding nuance to the trouble of balancing the unique political and economic costs that transboundary pipelines present in the Sudans.



This chapter is divided into four sections. In the first, I review the intersection of state sovereignty and natural resources. Then I discuss the limited literature on transboundary pipelines. I suggest that while petroleum pipelines can operate in the spirit of ‘sovereignty exchange’, this relationship is complicated by a post-imperial relationship between producer and transit countries. Introducing the South Sudanese case study, the third section outlines historical antecedents to contemporary narratives of resource sovereignty in South Sudan. I focus on the use of territory (physical exclusion) and revenues (economic exclusion) by the Government of Sudan from the Addis Ababa Peace Agreement in 1972 until southern independence in 2011. I conclude this section by reflecting on ongoing oil transportation conflict between Sudan and South Sudan in the post-referendum period. In the fourth and final section, I reflect on specific ways in which oil pipelines have been instrumentalized by the Government of South Sudan to construct sovereignty through border enforcement, state government power and regulation, and nation formation. I suggest that oil pipeline conflict in and between the Sudans cannot simply be understood as balancing agreements and economic incentives, but as essential to state construction. I conclude by highlighting the ways that this two-year campaign for resource control has, in fact, weakened state power in both countries.

#### *Westphalian state sovereignty and resource control*

Westphalian state sovereignty is the foundation upon which modern international relations are built (Weiss & Hubert, 2001). Difficult to define and vigorously debated (Bartelson, 1993), many scholars reference the *Montevideo Convention on the Rights and Duties of States* (1933) to formulate the three principle requirements of the modern state: a permanent population, a defined territory, and a ‘functioning government’. In addition to these three ‘inward’ criteria, there is also an ‘outside’ criterion. These include formal recognition by other sovereign states and the ability to exclude other states from interfering in domestic matters (Krassner, 1999; Joyce, 2011). States that fail to meet these criteria are often labelled ‘weak’, ‘fragile’, or ‘failing’ (See: Reno, 1999; Kriejan, 2002; Rotberg, 2003; Eizenstat, *et al.*, 2005), demonstrating that there is a ‘right’ or ‘proper’ and ‘wrong’ or ‘improper’ way to exercise state sovereignty. While the criteria to be considered a ‘proper’ state is vague, it is clear that statehood must be *expressed* in a

way that aligns itself with this definition to avoid being labeled a pariah (Hammar, 2008). In this sense, sovereignty is used as much to denote a state of being as it is a reference to what states do or practice (Weber, 1995). State sovereignty is not fixed and therefore states constantly struggle to demonstrate the competencies related to having that label - even if 'empirical' statehood is far out of reach (Zeigler, 2012). According to Weber (1995), sovereignty is a *simulation* and a *masquerade*. Thus, how Westphalian state sovereignty is expressed or symbolized and how those symbols are received is of material importance for the modern state.

*i. Resource sovereignty*

Amongst the various tactics and symbols that could be employed to demonstrate state power, resources have received immense recognition as an implicit component of sovereign power in the last half-century. The control a state exercises over resources is a direct reflection of a state's capacity to control land and property (territorial control) (Schrijver, 1997; Mommer, 2002). While this is not a contentious issue, the literature vigorously debates the relationship between 'permanent sovereignty over natural resources' and the extractive industries. Developing extractive industries tends to be capital-intensive and states may not possess the "financial-technical-logistical means of producing and selling those resources within the context of a complete world market" (Emel, *et al.*, 2011: 73; see also: Karl, 1997). As a result, states must form relationships with firms to develop extractive industries. Some have drawn attention to the inherent conflict between absolute sovereignty and foreign firms (Schrijver, 1997; Emel, *et al.*, 2011), but the relationship between state and firm is not necessarily a sign of the 'erosion' of sovereignty. Oil operations in particular are highly dependent on the state's ability to enclose and exclude others through property rights - for example, allocating concessions and relocating populations (Inayatullah, 1996; Bridge, 2008), not to mention the state is required to attract and mediate foreign investment (Mommer, 2002; Emel, *et al.*, 2011). The exploitation of resources then reinforces state power: states attract investment, allocate territory, and the resultant resource rents can be used to fund the state, increasing its power through government institutions, military, and police.

## *ii. Oil pipelines*

This resource-sovereignty dynamic can be extended to oil pipelines contained within a single state. Oil pipelines are incredibly capital intensive and therefore demand external investment to construct and operate (Omonbude, 2009; Stevens, 2009). In recognition of the costs, access to land, and a supportive legal environment, a portion of resource rent is provided by the state to the firm in exchange for infrastructure. The firm then benefits from the ‘natural monopoly’ created by the pipeline. A natural monopoly, in economic terms, means that barriers to entry into the market are too high and thus competition is eliminated or extremely limited. When a pipeline is constructed, barriers to entry in this specific market make competition uneconomical due to the previously mentioned high capital costs and technical requirements. Therefore, one pipeline is favourable to multiple pipelines competing for the same business. While the firm may have incredible power in the outset for establishing a desirable route, setting construction costs, and negotiating payment - once the pipeline is built, the firm must rely on the state’s intention to allow the firm to recover sunk costs (*i.e.*, continue oil production and not nationalize assets). Thus, power shifts in favour of the state (Omonbude, 2009) – this shift in power over the course of the development of an extractive industry is known as the ‘obsolescing bargain’ (Vernon, 1971).

### *The Politics of Transboundary Oil Transport: Resources, Sovereignty, and Surrender*

In the literature, the analysis of the relationship between state sovereignty and the extractive industries has been limited to exploring this one-to-one state-firm relationship. This (theoretically) simple relationship between state and firm is complicated with the introduction of a transboundary oil pipeline. Transboundary pipelines refer to pipelines that “cross another territory to deliver oil and gas to a third country” (Stevens, 1996: 1); thus, the addition of ‘another territory’ or ‘transit state’ complicates matters. Transit pipelines carry a political significance depending on the role of the transit country. Transit countries can be involved in the transport in two ways: (1) through allowing another states sovereign infrastructure to pass; or, (2) through ownership of infrastructure once it passes into their territory. In both scenarios sovereignty is both produced and relented by the producer and transit country. Producers are still entitled to exercise

sovereign control over resources (*e.g.*, allot territory, mediate interaction with firms) and benefit from the rents (Emel, *et al.*, 2011). However, by their very nature, transboundary pipelines necessitate the transit country gaining some level of control over the producer's sovereign resources (*e.g.*, infrastructure, rents) (Omonbude, 2009). As a result of shared power, there is a high risk that political and commercial conflict over 'transit terms' will arise, making transit pipelines inherently unstable (Stevens, 2009).

This instability exists for both political and economic reasons. In an economic sense, the natural monopoly phenomenon still holds true for transboundary pipelines: a transboundary oil pipeline infers a long-term willingness to cooperate due to a lack of other viable transport options following pipeline construction. Politically, after transit pipelines are built, they alter the usual patterns of the 'obsolescing bargain' between producer and firm. Wherein power usually shifts to the producing country after the pipeline is constructed, in the case of a transit pipeline, the relative bargaining power shifts from the firm to the transit country (Omonbude, 2009; Stevens, 2009). In this sense, transboundary oil pipelines narrow possibilities economically through creating a 'natural monopoly' on oil transport and conversely expand opportunities for political maneuvering by the transit state.

#### *Post-secession states, resource sovereignty and infrastructure*

While political and economic instability caused by transit pipelines may be overcome by states that already have a good diplomatic or economic relationship, these difficulties may be more acute in recently seceded or 'post-imperial'<sup>35</sup> states. Building on work by Stevens (1996; 2009) and Omonbude (2009) regarding the political complications of transit pipelines, I use 'sovereign exchange' (Cooley, 2000) to approach the intersection between state sovereignty and transit pipelines in post-secession states. In his work, Cooley (2000) describes Russia's negotiations with Former Soviet Republics (FSRs) for

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<sup>35</sup> Here I use the definition of imperialism as given by Clayton (2009: 373): "An unequal human and territorial relationship, usually in the form of an empire, based on ideas of superiority and practices of dominance, and involving the extension of authority and control of one state or people over another....imperialism is closely affiliated with colonialism. Both are intrinsically geographical – and traumatic – processes of expropriation, in which people, wealth, resources and decision-making power are relocated from distant lands and peoples to a metropolitan centre and elite". Therefore, 'post-imperial states' can be understood as a people claiming self-determination over land, resources, and political power to create a new sovereign state.

access to ‘imperial wreckage’ or assets (*e.g.*, telecommunications, military, etc.) that came under the territorial control of the FSRs following independence. In this, the core (Russia) formally recognized the sovereignty of the periphery (FSRs) in exchange for continued use of these assets, preventing seizure of assets by the core and the potential for expropriation by the periphery. Here, Cooley demonstrates that sovereignty can be ‘exchanged’ through agreements which both provide access to assets for one party while legitimizing the sovereignty of the other. Cooley rightly concludes, “as such, the pursuit of Westphalian sovereignty or exclusive control by either the post-imperial core or periphery would likely precipitate conflict”.

The case of the FSRs demonstrates that good faith can be created between core and peripheral states when the core state attempts to access assets in the periphery in exchange for formalized sovereign recognition. However, when the reverse is true (the periphery must access infrastructure in the core), I suggest there may be a heightened motivation from the core to deny access and diminish sovereign power of its former territory – an objective that could easily be met when the core must act as a ‘transit state’. The introduction of a transboundary pipeline heightens the pre-existing power imbalance between the two states. A motivation that may be heightened by oil in particular, as it is associated with high rents.

If we define sovereignty as “[the state] decides for itself how it will cope with its internal and external problems....[to] develop their own strategies, chart their own courses, make their own decisions about how to meet whatever needs they experience and whatever desires they develop” (Waltz, 1979: 96 in Cooley, 2000: 3), then we can say when these plans are undermined by external forces, sovereignty is undermined. The very nature of transboundary pipelines means that the *possibility* to interfere with sovereignty, by this definition, always exists. Given the role, as mentioned earlier, of resource control in defining sovereign power, the political and economic vulnerabilities of transit pipelines, and the political dynamics of post-imperial/post-secession states – while a core-periphery relationship is bound to complicate oil agreements regardless, I argue that an oil pipeline

originating from a ‘peripheral’ state and traversing a ‘core’ state is more likely to severely distort the ‘sovereignty exchange’ rationale.

With these considerations in mind, the following section provides an overview of the historical antecedents for contemporary oil pipeline conflict in the Sudans. The overview focuses on attempts by Sudan to exercise control over southern Sudan’s resources and how southern Sudan responded to these attempts. In the contemporary period, it becomes clear that there is an inherent tension in South Sudan that is both trying to assert its newfound statehood and the economic necessity of using northern oil pipelines and ceding absolute sovereignty over natural resources.

*Background: Connecting oil and southern sovereignty*

Between Sudanese independence from the British-Egyptian rule in 1955 and the Comprehensive Peace Agreement in 2005, Sudan has been engulfed in two successive civil wars. While the First Sudanese Civil War was focused on the nature of the political and economic relationship between the northern and southern portions of the new country, the last several decades of conflict in Sudan was, among other things, marked by a struggle between the North and the South to control resources.

The Addis Ababa Peace Agreement that ended the First Sudanese Civil War in 1972 allowed for investment in the Sudanese resource sector to open up for the first time. The North was initially reluctant to agree to oil exploration in the southern regions as “[...] the general backwardness of the Southern Sudan and its economic dependence on the North has been the strongest argument for the unity of the Sudan” (Alier, 1991: 236). While the “Southern national ideal” (Casertano, 2013: 91) has existed since colonial times, when oil was discovered in 1979 by Chevron, oil finds quickly became deeply entwined in the narrative of southern nationalism and the push for self-determination; enormous discoveries meant that the long underdeveloped south could assert its power to develop the oil fields and profit from resulting revenues. Yet over the course of the Second Civil War (1983-2005) and the Comprehensive Peace Agreement (CPA) (2005-2011) period, Sudan pursued ‘policies of exclusion’ (Kok, 1992; Jok, 2007).

These policies began in earnest after the North relented to southern pressure for exploration licenses to be issued to Chevron. Though Chevron preferred to base itself in the southern city of Malakal, they were relocated by the North to Muglad. Khartoum cited insecurity as the principal reason firms should not headquarter in the South (Alier, 1991). Borders between the northern and southern regions of Sudan began to be altered in the 1970s, starting with the conflict-ridden Abeyei area.<sup>36</sup> Initially, a referendum was to be held to decide which region possessed Abyei but the discovery of oil ignited a series of boundary disputes that continue to the present; a referendum that is supported by both the North and South remains an elusive goal. In 1980, fear amongst the southerners that the North would steal *their* oil took shape (Letsch, 1998). Sudanese President Nemeiri set forth a proposal to redraw the boundaries and place oil rich regions firmly within the North (ICG, 2007). This included a proposal to subsume the southern city of Bentiu, the planned location for an oil refinery, into the north (Bedal, 1986; ICG, 2005; Jok, 2007) (Figure 1).

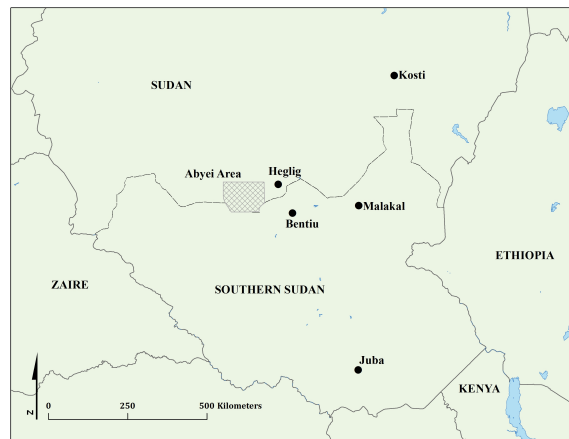


Figure 1: Significant border towns

While the initial proposal for drastic border alterations was eventually dropped, the Nemeiri regime failed to provide the proceeds from the Chevron exploration license owed to the southern government, breaching the Peace Agreement (Letsch, 1998). The plan to construct a refinery in Bentiu was also abandoned in favour of a location 200

<sup>36</sup> While Abeyei had initially been considered a part of the southern region of Bahr-El Ghazal, the region was transferred to Kordofan (North) by the British. While communities residing in the region shared fairly amicable relations in the past, the First Civil War (1956-1972) polarized the communities (ICG, 2007).

kilometers north of the administrative boundary in Kosti, with a pipeline that would eventually connect the southern oilfields to the Red Sea (Hutchison, 1996). In reaction to this plan, the southern Sudanese staged protests in Juba – demanding that the refinery remain in Bentiu and the oil pipeline connect Bentiu to Mombasa, Kenya – traversing southern territory (Alier, 1991; Hutchison, 1996). In the south’s perspective, the denial of petroleum infrastructure was condemning the southern region to perpetual underdevelopment (Alier, 1991). The North would develop at the expense of the south. Despite some economic development incentives offered by Chevron to the Bentiu region, Abel Alier, a politician from southern Sudan and former Vice President of Sudan, commented on southern frustration:

We believed in the incentives were satisfactory as far as the issue of refinery was concerned; we consequently ‘cooled off’. In a special message transmitted over Radio Juba 1 I asked the public to calm down and accept the incentives and the respect the President’s decision. But we were not convincing. Public opinion in the South remained hostile and condemned me for not fighting, physically, if need be (Alier, 1991: 242).

These successive moves by Khartoum to transfer territory and, therefore, resources to the north caused the Southern Regional Assembly to ask sarcastically, “When and to where in the North Sudan did the grasping central government intend to ‘transfer’ the area of the recently discovered gold deposits in Kapoeta?”<sup>37</sup> (quoted in Alier, 1991: 240).

As the Addis Ababa Peace Agreement deteriorated and the Second Civil War commenced, Khartoum continued to expand its reach, successfully incorporating portions of the southern region of Upper Nile into Kordofan, the adjacent northern state, in 1993 (Letsch, 1998). This was followed by the creation of a new state - Unity - by dividing the western portion of the Upper Nile region in 1994. Conflict over this oil-producing region persists until present and is considered one of the most “problematic” areas of the north-south boundary to resolve (Johnson, 2010: 59).

Coinciding with this period of border alterations, Chevron began selling its holdings in the mid-1990s. As concession acquisition accelerated, a series of civilian displacement

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<sup>37</sup> Kapoeta is located several hundred kilometers from the north-south border in Eastern Equatoria State.



campaigns in the oil regions were led by the northern army and its murahleen<sup>38</sup> allies (HRW, 2003; Johnson, 2011). Depopulated areas were then settled by Misseriya Baggara and Nuer militias aligned with Khartoum (Moro, 2008), attempting to permanently alter the demography of the region (Johnson, 2011). While many have reported the complicity of oil firms in these atrocities (see: Harker, 2000; HRW, 2003; Jok, 2007), state-induced displacement was legitimized by the sovereign power to pursue economic development and exercise control over resources.

The 1997 Khartoum Peace Agreement between the Government of Sudan and the South Sudan Defense Forces (SSDF) was followed by a brief suspension of conflict in the oil producing regions.<sup>39</sup> This agreement was critical to the period of rapid oil industry expansion in the late 1990s (Batrauch, 2011). Expansion culminated in the construction of the Greater Nile Oil Pipeline (GNOP) and a high-capacity oil refinery outside of Khartoum in 1999. These two critical pieces of infrastructure ensured the capital had access to a steady stream of revenues and refined product for domestic use. The revival and expansion of the oil industry from the mid- to late-1990s has been widely considered to be a key factor in the funding and continuation of the war (Switzer, 2002; HWR, 2003; Moro, 2008; De Wit, *et al.*, 2009). Southern oil was used against southern people who had no participation rights in the oil sector (Rone, 2003) and, ultimately, the conflict was threatening the oil industry (Natsios, 2012).

Following a ceasefire agreement in 2002, the 2005 Comprehensive Peace Agreement (CPA) established the Government of National Unity (GNU). The GNU was a cooperative government based on two regional governing bodies: the Khartoum-based National Congress Party (NCP) and the Juba-based Sudan Peoples Liberation Movement (SPLM). The CPA sought to outline a clear understanding of the division of resources and revenues. The South would be entitled to fifty percent of revenues from oil produced *in the south*. The stakes were high in determining what constituted oil ‘produced in the

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<sup>38</sup> Also ‘murahilin’. This refers to Baggara militias primarily in Southern Kordofan that were armed by the GoS and officially incorporated into part of the Northern army in 1989. These groups were used repeatedly in the oil producing regions to dislodge civilians from oil wells and areas of interest— specifically Blocks 1, 2 and 4 (HRW, 2003).

<sup>39</sup> The Khartoum Peace Agreement allowed for modest revenue sharing between the Government of Sudan and the SSDF – due to Khartoum’s reluctance to honour the agreement, it disintegrated.

south', therefore resolving boundaries remained a political fixation. For example, in 2005 the International Crisis Group reported that they had received a letter in June 2004 from the Minister of Federal Affairs to the Governor of Unity state. The letter stated that the Heglig region belonged to the North (Western Kordofan state) rather than the South (Unity State) (ICG, 2005: 18). The Heglig oil field located in Unity State is one of the country's most productive oil fields. In addition to disputes over the location of oil wells, under the CPA, Khartoum would also remain in control of revenue redistribution. Similar to the post-Addis Ababa revenue transfer arrangement, Khartoum was accused of denying the South its full portion of revenues. Oil production and revenue statistics were altered (Verhoeven & Patey, 2011), sometimes as much as 26 percent in favour of Khartoum (Global Witness, 2009).

In summary, the last several decades of conflict in Sudan was marked by a struggle to control resources. Boundary reorganization, displacement, denial of infrastructure, and the use of oil rents are only a few examples of policies and practices that demonstrated Khartoum's power over the southern periphery. During the CPA period both parties had been unable to 'make unity attractive' and the capacity to act in good faith, an essential component of implementation, was absent (Natsios, 2012). North-South sharing of resources was the reality on paper, but it was clear that "Sudan's oil industry is a network of state and business that focuses on promoting the north. It is localized in the capital, Khartoum, and is not a national economy that connects all parts of the country..." (Jok, 2007: 187). Regional imbalances in socioeconomic welfare present at the time of independence were exacerbated through two civil wars, creating a core and periphery relationship that administrative changes put forth by the CPA could not more than superficially address. By 2009, the SPLM began to promote the idea that independence was the only way the South could truly have adequate control over their resources and gain political equality with the North. The manner in which the North managed oil has resulted in a distinct focus by the newly independent Government of South Sudan on state sovereignty and resource control.

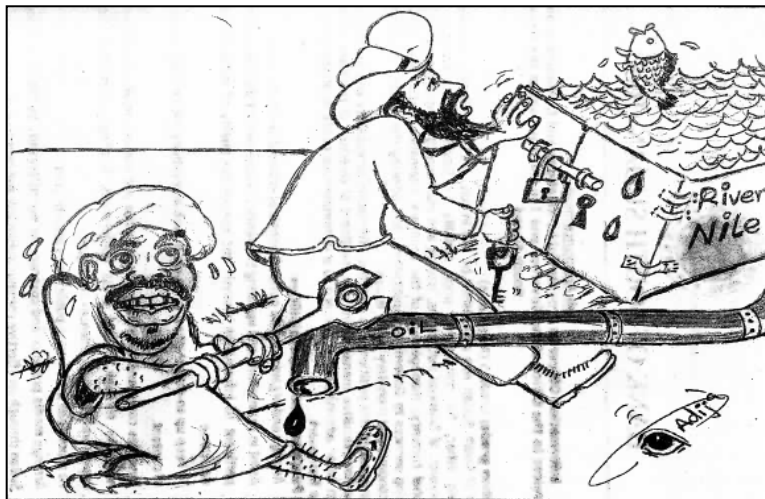
### *Independence and establishing resource sovereignty*

In July 2011, South Sudan became the world's newest country, gaining formal control over 85 percent of Sudanese oil reserves (Belloni, 2011). Oil production was expected to continue after independence as the mutual dependence on oil export was predicted to bind the countries together (Natsios, 2012; Castertano, 2013). As Natsios (2012: 221) optimistically remarked: "One of the unintended consequences of the development of southern oilfields and the related infrastructure to support it – the pipeline, refineries, and port in the north – has been the integration of the two economies. Both sides are now dependent on each other for their survival." With little clarity on how the resources and infrastructure would be shared, the feelings of peace via economic symbiosis were short lived.

Viewing southern independence as a blow to their economy, the Government of Sudan set the transit fee at US \$30 per barrel (pb), well above international average of \$0.40 to \$1 pb, with the intention of recuperating revenue loss via these transit fees. South Sudan refused to pay the inflated rates and offered between \$0.63 and \$0.69 pb in addition to a one-time revenue loss compensation payment of \$1.7 billion. As a result, the Sudanese government began diverting an estimated \$815 million in Nile Blend crude to the el-Obeid Refinery in Khartoum and seized four loaded oil tankers awaiting export in Port Sudan – holding them until the South agreed to pay transit fees owed in arrears. Unable to resolve this dispute, the Government of South Sudan made a unilateral decision to suspend oil production and export as of 20 January 2012. The situation almost devolved into all-out war in April 2012 (AUHIP, 2013a), but fortunately ongoing negotiations overseen by the African Union High-Level Implementation Panel for Sudan and South Sudan (AUHIP) managed to dissuade rash decision-making. The AUHIP pushed negotiations forward on the principle of "two viable States", seeking mutually beneficial outcomes that maintained the use of the northern infrastructure (AUHIP, 2013a). By January 2013 an agreement was reached to resume oil production by May 2013 (AU, 2013b) – a year and a half after the initial shutdown. The rationale for cooperation is obvious. The shutdown had caused economic chaos in both countries and austerity

measures were affecting the political legitimacy of both governments. As AUHIP remarked, “Sudan and South Sudan are linked by immutable facts of geography and history. There is no viable alternative except for the two countries to affirm these ties and develop closer, cooperative relations with each other in the economic, social, political and security spheres” (AUHIP, 2013a: 8).

Despite the economic chaos caused by the initial oil disputes, the AUHIP agreement did not hold for long. In a public address on 8 June 2013, President Omar Al-Bashir ordered the shutdown of all oil pipelines connecting South Sudanese oil fields to the Red Sea, alleging Juba was supporting rebels who were attacking northern oil installations, including pipelines (BBC, 2013; Reuters, 2013). After another series of negotiations, Sudan and South Sudan managed to prevent complete shutdown through another AUHIP agreement reached 26 September 2013. Due to the ongoing uncertainty, production numbers were drastically reduced.



**Figure 2:** ‘This means (resource) war’ – Sudanese President Omar Al-Bashir depicted closing northern oil pipelines as South Sudanese President Salva Kiir retaliates by withholding access to the Nile waters (Citizen Newspaper, 2013a)

The willingness for both states to hold each other hostage speaks volumes about the political and economic reality of the Sudans in the post-referendum period. In some respects, this breakdown represents the weakness of agreements leading up to independence and the lack of political will on the part of the Government of Sudan to envision a country divided. Neither the NCP nor the SPLM seemed intent on solidifying a comprehensive oil deal or settling ongoing border disputes before independence (Patey,

2010) and, as a result, these unresolved tensions were bound to surface. While South Sudan gained ‘juridical sovereignty’ in 2011, it clearly did not possess ‘empirical sovereignty’ in the most basic sense: borders were ill-defined and the South’s capacity to control its own political and economic destiny was limited by the North’s control over oil export. Yet, as is the case for post-imperial and post-secessionist states, great importance is placed on statecraft. In the following section, I argue that the seemingly irrational oil pipeline disputes between Sudan and South Sudan served a very real political objective for South Sudan.

### *Performing sovereignty: Oil and the nation-building project*

This section considers the way both state building and nation building have influenced South Sudan’s decision to shut down oil production in 2012 and continues to impact southern resource policy, prioritizing political gains over economic gains. I demonstrate how various actions and narratives surrounding oil shut down were actively used to produce the South Sudanese state by ‘performing sovereignty’ (Weber, 1995; Sidaway, 2003; Hammar, 2008). I categorize these examples into policies and practices that establish the three widely accepted markers of state sovereignty: exercising eminent domain rights (alternative pipeline routes and policy shifts), creating and controlling populations (southern nationalism), and establishing boundaries (oil pipeline shutdown and border conflict) – with the overall purpose of resisting external interference.

#### *i. Policy shifts*

Two months after the initial oil shutdown in March 2012, the Government of South Sudan reached an agreement with the Kenyan and Ethiopian governments to build a southern oil pipeline route from South Sudan’s Unity State to the Kenyan Coast, thereby removing South Sudan’s dependence on the North. The pipeline would constitute the economic backbone of the larger Lamu – South Sudan Ethiopia Transport Corridor (LAPSSET), a USD 20 billion mega-infrastructure project that includes highways, airports, resorts, an oil refinery, and the biggest commercial port on the continent (See: Government of Kenya, N.d.; Nunow, 2012; RVI, 2013; Save Lamu, 2013), paving the way for South Sudan’s entry into the East African Community. A year later the

Government of South Sudan also began looking into an alternative route through Ethiopia and Djibouti in hopes that the costs would be marginally less expensive (\$0.5 – 1 billion) than the Kenyan route. Though some representatives believe both pipelines should be built based on potential oil reserves in the undeveloped ‘Block B’ held by Total in Jongelei and Eastern Equatoria State.

At best, the plan for alternative South Sudanese pipelines seemed wildly uneconomical. Donors and international organizations became frustrated, suggesting that the Government of South Sudan had not fully considered the ‘cost’ of the shutdown and the planned routes (DeWaal, 2014). The northern pipelines and port facilities remain functional and building either alternative pipeline was expected to come at a cost of \$5-6 billion (Interview, 2013a). With corporate funding not forthcoming, the price tag was well outside of the meagre budget of the Government of South Sudan. Politically, the LAPPSET oil pipeline would disrupt any semblance of a balance of power between Sudan and South Sudan; the economic incentive of maintaining the northern route, while weak, has managed to draw both parties to the negotiating table repeatedly. Denying oil revenue to the North threatens the National Congress Party (NCP) regime and President Bashir (LeRiche & Arnold, 2012), demonstrated by the widespread protests stemming from austerity measures (Bloomberg, 2013; HRW, 2013).

The pursuit of an alternative oil transportation network fits into a broader trend to distance the oil industry under the Government of South Sudan from that of a unified Sudan. Since independence, the Government of South Sudan has distanced itself from the practices of Khartoum by creating a legal environment that is amenable to a transparent, equitable, and sustainable petroleum industry that benefits ‘the people’. This is reflected in the *Transitional Constitution* (2011), the *Petroleum Act* (2012), and the *Petroleum Revenue Management Act* (2012). These changes align with Bremmer and Johnston’s (2009) conception of ‘revolutionary resource nationalism’ as a symptom of “broader social and economic upheaval” (Bremmer & Johnston, 2009: 105) that may come as a result of decolonization or secession. It consists of a complete re-ordering of extractive industries – with historical injustice and/or environmental damages used as a justification

for the top-down approach. This policy reaction can be seen as a way to assert a territorial notion of sovereignty where sovereignty operationally means having capacity to “dispose of its natural wealth in accordance with its national interests” (Stevens, 2008: 10) in isolation from external (*i.e.*, northern) actors. While reporting has focused on the North taking revenues away (BBC, 2012), in this specific case, with oil representing 98 percent of government revenues outside of foreign aid, denying revenue denies the capacity to fund the state. Thus, widely publicizing alternative oil pipeline negotiations, regardless of the economics, and introducing transformative – even explicitly oppositional legislations - is about making the power to alter the industry visible (Buur, *et al.*, 2006). This could result in eliminating dependence on Sudan, or at least demonstrating such a move would be possible – increasing the pressure on the North to negotiate favourably.

*ii. Linking pipeline disputes to border disputes*

As mentioned earlier, delimitating mutually agreeable borders between the Sudan and southern Sudan was an ongoing struggle for the past 50 years. The discovery of oil has raised the stakes of these struggles as the active oil producing regions straddle the contested North-South border. The NCP and the SPLM/A repeatedly competed for military dominance in the oil producing regions, denying territory and resources. Johnston (2010: 61) notes, “early in the war the SPLA ensured by their military presence that the oil fields could not be actively exploited; thus denying much-needed revenue to the indebted Khartoum governments.”

During the oil shutdown, it was believed that border disputes – particularly over the Heglig fields – would descend into outright war between the neighbours (IRIN, 2012). South Sudan was occupying the fields that, according to the 1956 border to which Sudan and South Sudan had initially agreed fell within Sudan. Juba countered that Khartoum had been bombing Bentiu, the capital of southern Unity State, in preceding months. In reality, the states are in flux and it is unclear where the borders lie due to years of Khartoum pushing the border south to encompass resources and incomplete/unclear historical records (IRIN, 2012) and the South pushing north with military might.

Abyei – one of Sudan’s most historically productive oil producing regions - continues to be a sticking point for the two governments. While the Abyei Boundary Commission claimed the territory was Ngok Dinka (South), Khartoum believes the ABC is overstepping its boundary and refuses to recognize this decision. As a result, negotiations were taken up by AUHIP. Since then, Abyei has been closely linked to ongoing border disputes – both sides forcing their way forward – using oil and oil negotiations as a venue to air these grievances. The immediate potential for conflict was ‘resolved’ by the September 2013 AUHIP agreement that, in addition to setting up a framework for transit fees and resource division, called on both countries to discontinue support for rebels operating on opposite sides of the border. At the time of writing, there remains an ongoing struggle of establishing a 1,800 kilometer demilitarized zone to bring peace to the border regions.

The oil industry has been used to dramatize a longstanding conflict over ill-defined borders. When South Sudan draws attention to ‘intervention’ by a foreign actor (*i.e.*, border incursions), there is an implication that something is being intervened in (Walker, 1993). In other words, sovereignty is the norm and intervention is the transgression (Weber, 1992):

Practices of recognition or non-recognition are not only linked to imperialism or to its legacy, neo-colonialism, but they also take practical political form during military conflicts. Wars and state interventions, as well as the justifications offered by states for these activities, participate in the social construction of which territories, peoples, and authority claims will be accorded sovereign recognition. (Biersteker & Weber, 1996: 12)

In this sense, the North is used instrumentally to confirm the integrity of the South Sudanese state and vice-versa. Both states are claiming intervention in “their territory” create the territory – even though it is widely recognized that the border has yet to be conclusively defined.

### *iii. Southern nationalism and oil conflict*

As mentioned earlier, the ‘southern nationalist ideal’ pre-dates Sudanese independence from the British-Egyptian government:



Historians have argued that without the South there would be no North [referencing the slave trade]. This is even truer of the South; without the confrontation with the North, the still vivid history of rapacious invasions by northern slave traders, and the more recent attempts by the post-independence governments to dominate the southern peoples, there would be no South as a viable political entity. (Deng, 1995: 9)

Yet, the creation of a southern state has been highly dependent on the creation of a southern nation. The southern national identity has been premised on a southern liberation identity or a ‘negative identity’ – the South defines itself by being in opposition to the North. This was politically useful throughout the Second Civil War in justifying the need for a sovereign state, with the resultant economic and political advantages (Casertano, 2013). Though questioned by some (See: Young, 2003: 423-424; Idris, 2005), in the lead-up to the referendum, nationalist sentiment was a positive indicator of future southern success:

[the South] is unified both by its animosity toward the north and its determination to make itself an economic and political success [...] Thus, the existence of a hostile and belligerent north looming across the 1240-mile border between the two countries may be the unifying cement that holds the south together while it constructs its new society, government, and economy. (Natsios, 2012: 218)

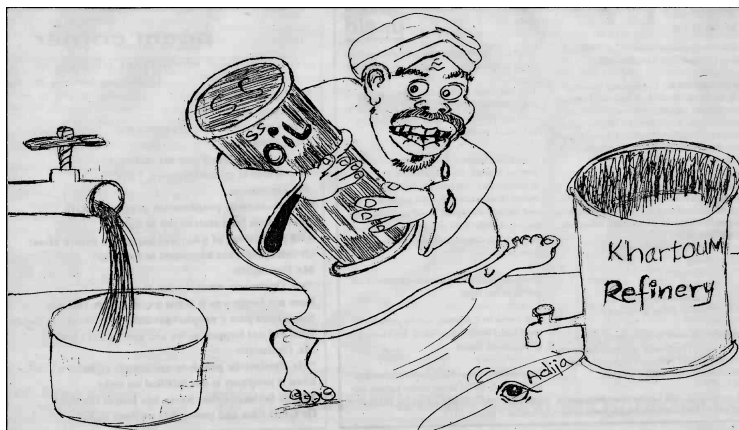
It goes without saying that the cohesive ‘nation’ remains just as important in independent South Sudan.

In many ways, the current oil disputes have been instrumental in creating social cohesion. Initial announcements of the shutdown by South Sudanese officials reminded citizens that, although revenue would be suspended, losing oil to Sudan would be much worse a fate (*Guardian*, 2012). Citizens in the capital, Juba, and in the capitals of all other nine states showed support of this decision by organizing rallies (Sudan Tribune, 2012; Gurtong, 2012; Sandrai, 2013). In an interview, Makur Nyongdit noted: “All the peace loving youth, women and students from Warrap have decided to hold this peaceful demonstration to show our support for the national government over the decision to shut down oil production. This will enable the government in Khartoum to respect our resources” (*Sudan Tribune*, 2012).

At the rally in Torit, Eastern Equatoria State (EES), the rally organizer issued a letter to President Kiir that read:

We the entire citizens of EES would like today 23/01/2012 to register our congratulations through you, our Governor (Hon. Louis Lobong Lojore), to President of the Republic of South Sudan and the entire National Cabinet for the right and brave decision taken on 20/1/2012 [sic.]. We as a new nation will not tolerate our valuable resources stolen from us or from being marginalized by any country [...]. (Gurtong, 2012).

These sentiments reflected frustration with Khartoum throughout the CPA and independence, but it also was an opportunity to draw attention to the continuing marginalization of the South by Khartoum: “specifically, it hurts us from our past, South Sudan always wanted oil to go through Kenya.... to understand you must put this in the context of the Arabs stealing from us – stealing what we always wanted” (Interview, 2013b).



**Figure 3:** Sudanese President Omar Al-Bashir depicted 'stealing' South Sudanese oil from the northern pipelines and refining it for domestic consumption (*Citizen Newspaper*, 2013b)

Indeed, despite the economic chaos that ensued after the 2012-2013 shutdown, Khartoum's threats to close the northern pipelines again in June 2013 were met with equal defiance. An editorial published by the *Citizen Newspaper* entitled 'Approaches of keeping free from Sudanese bondage' echoed these concerns for state integrity:

When those who heard the speech of Al Bashir in their radio or read it in the media outlets, he sounded like a slave master of yesteryears but the present South Sudanese people are free and their country independent and therefore if al Bashir think that without Sudan we cannot survive than he is a slave to his own rotten thinking [...] they can keep their pipeline built partly with money looted from South Sudanese oil revenue as a museum monument [...] he must know 'not to

talk to us as a leader anymore but as an ordinary foreigner looking for friendship’ (Citizen Newspaper, 2013c).

Grand gestures of political power and assertiveness have been politically useful for the South in defining the South Sudanese state. States must constantly engage in nation-building to rationalize and validate statecraft; a state must “ [...] impose fixed and stable meanings about who belongs and who does not belong to the nation, and thereby distinguish a specific political community – the inside – from all others – the outside” (Doty, 1996: 122; See also: Frances-Gomez, 2001). Indeed, by constructing a ‘nation’, a corresponding political unit would be desired; states must go beyond defining territory and form meaningful coherence within their populations, a sense of belonging and shared frameworks for understanding (Prokhovnik, 2007). By engaging the historical roots of the southern secessionist movement, the South reminds the population of the importance of the state: protecting them against Northern greed and manipulation. In many ways, rallying the anti-North sentiment also serves to distance public discourse from poor management of resource revenues by the southern government and the governments’ mutual responsibility in failed diplomatic and economic relations.

Of course, while the intention to exert sovereignty over natural resources while playing on the historical southern ‘anti-North’ identity has been politically useful, the division of the northern and southern regions into two separate states has not addressed systemic domestic divisions. Neither state acts cohesively as ‘the north’ or ‘the south’. Long-time nationalist movements that emphasized the regional unity have now been released from the pressures of Khartoum and now must grapple with independence under a single unified state. Recent political conflict and widespread violence in Unity, Upper Nile, and Jongelei States beginning in December 2013 demonstrates that nation-building that goes beyond North-South rhetoric has been ignored, with devastating consequences (Alowich & Tiitmamer, 2014). Indeed, occupying oil wells and slowing production has also been a politically useful tool for groups within to draw attention to their historical grievances.

#### *‘Empirical sovereignty’ versus ‘juridical sovereignty’*

The manner in which resource extraction (and related processes) occurs is essential to

state creation. While measuring the level of ‘sovereignty’ seems an impossible task – not least because of the various critical interpretations of sovereignty (See: Agnew, 1994; Sidaway, 2003) - it is clear that statehood must be *expressed* in a way that aligns itself with the classic definition of Westphalian sovereignty to avoid being labeled an ‘African weak state’ (Hammar, 2008, See: Jackson & Roseberg, 1982; Reno, 1997). Though state sovereignty can be granted judicially, for example, when South Sudan was declared a state, the effort is then placed on becoming an ‘empirical’ state. In this sense, sovereignty is used as much to denote a state of being as it is a reference to what states do or practice (Weber, 1995). States must continually struggle to demonstrate the competencies related to being ‘sovereign’. As mentioned previously, natural resource control is a proxy for measuring state control over land, populations, law, and external actors and are therefore essential components in a state’s struggle to gain empirical (Westphalian) state sovereignty. In the post-referendum period, South Sudan has used oil – and oil transport in particular - to create sovereignty and to disrupt the old sovereign order, even at its own expense. Specifically, South Sudan has instrumentalized the historic and contemporary oil conflict with Sudan to demonstrate policy and legal power, redirect infrastructures, rally nationalist sentiments, and advance border claims. More than providing simply ‘sovereign meaning’, oil revenues are inherently linked to the day-to-day existence of the South Sudanese state. With 98 percent of government revenues stemming from oil leaving the country, any disruption or *possibility* of disruption is a threat to the state itself.

Yet, transit pipelines inherently engage with this risk. Economic factors, specifically the natural monopoly created by transit pipelines, make quick alternative routes unfeasible – particularly when producing states do not possess the capital to construct alternate routes outside of firm support. Thus, a long-term relationship is inevitably formed between producer and transit state, a relationship that theoretically favors the transit state (Omonbude, 2009; Stevens, 2009) – especially when the transit state is dominant without the existence of the pipeline (the core). This, of course, does not mean that transboundary pipelines necessarily induce conflict and exploitation of power inequities. Both states must be willing to acquiesce absolute sovereignty, such as land access, sovereign rents,

and security, to further mutual political and economic objectives – as Cooley (2000) defines ‘sovereignty exchange’.

The lead up to independence did not adequately address the ‘sovereignty exchange’ that would be required for cooperation in the oil industry, nor did it consider the political factors that would push South Sudan to pursue absolute sovereignty and motivations for Sudan to deny the South Sudanese state. The ‘Agreement between the Government of the Republic of South Sudan and the Government of the Republic of Sudan on Oil and Related Economic Matters, 2012’ (the 2012 Oil Agreement) reached through AUHIP negotiations in September 2012, represented a turning point. It recognized in the preamble that the Sudan-South Sudan relationship must move forward on “the basis of respect for each other’s sovereignty, territorial integrity, and common pursuit of sustainable development and mutual benefit in accordance with international law”.

Although the realist perspective of state sovereignty is useful to understand what is influencing South Sudan’s actions, it is not useful in understanding the results. South Sudanese resource governance has mirrored the North (Patey, 2010). Reflecting on Sudanese sovereignty during the Second Civil War, Jok (2007: 187) notes:

Control over the capital has given the state international recognition to sign contracts and sell resources for its own benefit to the exclusion of the bulk of the population. By utilizing the economic predations of the resource-extracting foreign companies owned by other nation-states, the Sudanese state has escaped taking responsibility for people beyond its control, concentrating the nation’s resources in the hands of its narrow support base in the capital city and other northern towns.

Indeed, the model of ‘sovereignty’ here was not ‘nation-states’ developing their resources, but firms and elites who are “nominal holders of sovereignty” (Ferguson, 2006: 204) having just enough power to legitimize resource extraction (Reno, 1997), but then being unable to manage the resources and rents for public benefit (*i.e.*, fund essential services for citizens).

Ultimately, moves that initially signaled the newfound sovereignty of South Sudan have begun to demonstrate its undoing. The conflict in Abyei alongside other border disputes in Upper Nile and Northern Bahr al-Ghazal has threatened the credibility of the

Government of South Sudan in both its stated intentions to negotiate and its capacity to manage disputes (Akol, 2013a/b). For example, nearly \$4 billion had been ‘misplaced’ during the period immediately following independence (FFP, 2013) and following shutdown, the Government of South Sudan was then pressed to find loans from the international community. There was unease about the manner in which the government acquired and managed these loans (Jok, 2013).

In the Fund for Peace (2013) annual Failed State Index, South Sudan placed fourth out of four countries (Somalia, DRC, and Sudan) on ‘very high alert’ for state failure based on a series of social, economic, political, and military indicators. The report on South Sudan, titled ‘The Dark Side of State-Building’, suggests that while the “North bad/South good” (FFP, 2013: 23) rhetoric helped lead to a consensus on the conception of the new state and spur widespread optimism in the immediate post-independence period, overtime this dichotomy has become less useful. The emphasis on the resistance to the North in creating sovereign meaning by South Sudan has ultimately demonstrated that there are “legitimate grievances and deep internal divisions underlying conflict that have nothing to do with Khartoum” (*Ibid.*:24), a reality that poses real threats to the state. The report concludes that “South Sudan may have lots of window dressings but as of yet none of the actual underpinnings of statehood” and that some of the “good guys of South Sudan were suddenly not looking so great” (*Ibid.*:24).

While some analysts have rightly asserted that it is unfair to critique South Sudan’s state apparatus so soon after independence (Mayai, 2013), it is fair to critique the emphasis that has been placed on resource control. In its report, the FFP (2013) emphasizes the role that oil transport conflict has played in weakening both states economically and politically. What South Sudan fails to grasp then is that sovereignty is not about state control but about state authority (Zeigler, 2012).

### *Conclusion*

This research contributes to three broader discussions. First, this case study contributes to understanding of natural resource exploitation in ‘weak’ states, drawing attention to

natural resources ability to provide ‘weak’ states an opportunity to *perform* the Westphalian sovereignty (Weber, 1995), a particularly important performance for recently seceded states. Second, it contributes to a broader discussion about the political difficulties in balancing ‘core-periphery’ economic relationships within and between states, having broader applicability to other scenarios such as Israel/Palestine, Yemen, and Nigeria. Finally, this research attempts to call attention to the need to expand research on the ways in which transboundary oil pipelines create distortions in international relations. Specifically, transit pipelines distort the ‘sovereignty exchange’ rationale in post-imperial/post-secession states because of the innate role of resources in delimitating what it means to be sovereign. Because transboundary pipelines alter ‘normal’ political (obsolescing bargain) and economic (natural monopoly) conditions by imparting disproportionate power on the transit country, transboundary pipelines inherently present the *possibility* for sovereignty disputes. As can be seen in the case of the Sudans, there is a heightened possibility of the relationship devolving into a renewal of historical core-periphery dynamics in post-imperial or post-secession states. While actors can be enticed to operate in good faith through economic (rent sharing) and political (formalized ‘sovereignty exchange’) agreements, if unresolved historical tensions exist there is a heightened motivation for both the producer and transit country to manipulate an oil pipeline to their advantage – whether that be political or economic. In the case of South Sudan, we can see that clear political advantage, despite the very real economic costs, were deemed to be satisfactory in closing oil transit and production. I conclude by suggesting that sovereign entrenchment in following independence or self-determination movements are neither rigid nor irreversible. Furthermore, sovereignty cannot be understood as the sole driver in decision-making, yet it is clear through this analysis that it is a substantial complicating factor.

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#### IV. 'LAND BELONGS TO THE COMMUNITY': CHALLENGES TO LAND TENURE SECURITY IN EAST BANK EQUATORIA, SOUTH SUDAN

##### *Introduction*

In November 2009, more than four years after the Comprehensive Peace Agreement (CPA) between Sudan and the Sudan Peoples Liberation Movement/Army (SPLM/A), Brigadier General Aloisio Emor Ojetuk, Governor of Eastern Equatoria State, called for community members in East Bank Equatoria<sup>40</sup> to return to their villages: “The communities remain up in the mountains and expect the government to climb up to provide services....We are no longer at war with the Arabs. Come down from the mountains and we will provide you with the services that you need” (Simonse & Kurimoto, 2009: 72-73). While ending war with ‘the Arabs’ had done little to provide the communities full confidence of peace to the region due to ongoing insecurity, communities have been slowly returning to the fertile lands they had abandoned since 2007. Unfortunately, many returned to find their former plots occupied by soldiers,

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<sup>40</sup> Political boundaries that emerged in the late-1970s dividing Equatoria into three distinct states (Western, Central, and Eastern) do not represent ‘real’ divisions between communities, as is often the case in modern statecraft in Africa due to the legacies of colonial rule (Jackson & Rosberg, 1982). For the purposes of this paper, I reference the ‘East Bank’ as a geographically and, in many ways, culturally distinct area (see *monyomiji* governance systems later) beginning east of the Nile River in Central Equatoria and extending west to Budi County in Eastern Equatoria and north to the Lafon hills. The majority of the East Bank is located in Eastern Equatoria – therefore when referencing a state politics and history, I often refer to Eastern Equatoria is the general reference point.

officials and other returnees (Pantuliano, 2008; Schomerus, 2008; Pantuliano, 2009; Leonardi, 2011). While this appears to follow the general challenge of conflicting land claims in post-war resettlement (Kabera & Muyanja, 1994; Kibreab, 2010), for South Sudan, challenges to community land access has deeper roots and greater political significance.

During the Second Sudanese Civil War (1983-2005), 'land belongs to the community' emerged as a battle cry from the southern-based SPLM/A, referencing larger political grievances about the Government of Sudan's exclusionary management of oil, land, and the Nile waters (De Wit, *et al.*, 2009; Johnson, 2011; Johnson, 2013). During peace negotiations that began in 2002 between the Government of Sudan and the SPLM/A, local control over land and natural resources became a key negotiating posture for the SPLM/A (Deng, 2011a). After the Comprehensive Peace Agreement (CPA) was reached in 2005, the management of land was deemed vital to the outcome of the ongoing peace process in southern Sudan (Pantuliano, *et al.*, 2007; Pantuliano, 2009; Leonardi, 2011; Johnson, 2011) and the results of the Southern secession referendum in 2011 (Johnson, 2013). Given this, land has garnered a great deal of scholarly attention (De Wit, 2004; De Wit, 2008; Pantuliano, 2008; Shanmugaratnam, 2008; Pantuliano, 2009; USAID, 2010a; Maxwell, *et al.*, 2011). Now with southern independence in 2011, the government must act quickly to ensure equitable access to resources amid expectations from the population that independence would finally grant communities their hard-fought rights.

However, the parameters set out by the state have not narrowed what is meant by the broad assertion that 'land belongs to the community'. This reality ties well with the literature that, since the 1990s, has been focused on recognizing community rights, yet has ignored the thorny questions of 'who is a member of the community?', 'what does legitimate community authority look like?' (Boone, 2007), and 'what are the boundaries of community land?' (Deng, 2011a). In the case of South Sudan, these questions are further complicated by the realities of the post-war context. War and the resultant displacement has realigned communities, increased the rate of urbanization, and eroded longstanding local practices.



Based on fieldwork conducted in East Bank Equatoria in 2013, this article considers some of the difficulties in defining ‘community’ in the contemporary period by cataloging the immense various interpretations<sup>41</sup> of ‘community’ that have developed in the context of resettlement and broader political transition in a relatively small geographic area.<sup>42</sup> By drawing attention to these variations, this article seeks to examine the range of challenges communities are facing in the post-war era and how they are addressing these challenges. Specifically, this article examines some of the variations in land access and tenure security, including: land access, tenure security, levels of external investment, and community cohesion in the context of three communities. In doing so, this paper complicates the notion that ‘land belongs to the community’ is a feasible long-term policy position for the state.

This paper begins by providing an overview of the evolution of local governance and administration in the East Bank as it relates to colonial and state policies more broadly. Next, a historical overview of the Second Sudanese Civil War as it played out in Central and Eastern Equatoria State sets the stage for the contemporary challenge of post-war resettlement, ongoing insecurity, and adjusting local governance. The following section provides an overview of the study site as well as a brief overview of my research methodology. A chart detailing some key aspects of land and livelihood security in the seven villages is followed by three qualitative case studies. These three case study communities have been selected to demonstrate the diversity of experiences in a narrow geographic and socio-cultural zone. This paper concludes by summarizing the challenges to land tenure security and ‘outsider’ land pressure in this area. Based on these empirically narrow findings, this research intends to contribute to a larger body of research that considered the nature of ‘community’ land access in South Sudan. It concludes that, while some communities have adopted a range of tactics to deal with unique land pressures, land access is still more likely if one is from the ‘dominant’ ethnic group and that there are already signs of the clash between loosely defined administrative communities and ‘customary community’ land boundaries.

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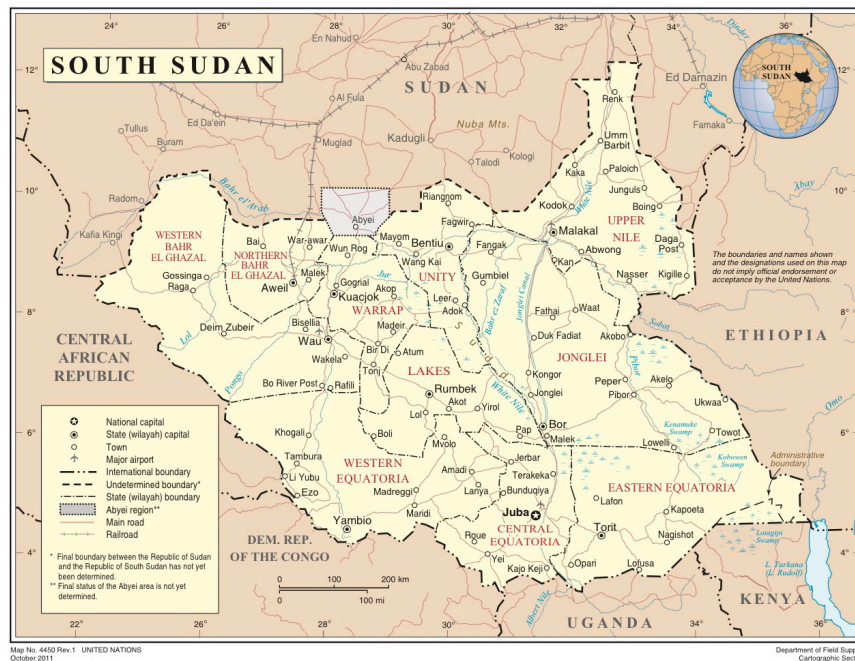
<sup>41</sup> This paper does not attempt to represent a singular or complete view on all land matters in these communities, but rather demonstrate the wide variance within relatively small communities with similar ‘customary’ systems.

<sup>42</sup> It also complements the work of Deng (2011a) in Western and Central Equatoria states by suggesting that in agricultural areas of Eastern Equatoria, ‘land belongs to the community’ is also used as a rhetorical tool to demonstrate community rights to consultation with government, not-for-profits, and private investors in matters involving land acquisition.

### *Local administration and ‘traditional’ governance in transition*

Central Equatoria State and Eastern Equatoria State are located in the south-central and southeastern portion of South Sudan (Figure 1).<sup>43</sup> Ehret (1982) and Simonse (1992) have argued that eastern Equatoria is a ‘melting pot’ where groups with different cultural and linguistic affinities have been interacting for thousands of years and therefore exist in a common intra- and inter-community governance framework.

Figure 1: States of South Sudan



United Nations, Field Support: Department of Cartography (2011)

In pre-colonial times, each series of hills and valleys in the East Bank represented a different kingdom that was overseen by a ‘Rainmaker’ or King<sup>44</sup> (Simonse, 1992). The

<sup>43</sup> The states were administered as a single state, Equatoria, until the Government of Sudan redrew the administrative boundaries in 1976.

<sup>44</sup> King and rainmaker refer to the same individual in colonial and anthropological texts. Whereas colonial and some anthropological analysis of the role have focused on the spiritual role of this individual, thus use ‘Rainmaker’, other texts privilege political power,

Rainmaker, who was responsible for several villages, would exercise both political and spiritual power<sup>45</sup> in collaboration with ‘Masters’ or ‘chief priests’ who have power over other aspects of community life (e.g., land, protection, wind) (Simonse, 1992). This system worked in tandem with a counterbalancing system of governance known as *monyomiji*.<sup>4647</sup> The *monyomiji* consist of a group of males from an age-set between youth and elders, operating as a ‘parliament’ for the community (Lomodong, 1995).<sup>48</sup> *Monyomiji* have authority over issues such as: negotiating boundaries with other communities; managing access to common natural resources such as water sources and fruit trees; and, offering protection to the village (Simonse & Kirimoto, 2009).<sup>49</sup> In addition to the Rainmaker and the *monyomiji*, a chief and a council of elders functions as a local court to resolve disputes and enforce customs (Lomodong, 1995). It is important to note that in this system, the chief had limited power.

The solidification of British-Egyptian colonial rule<sup>50</sup> over Sudan in the late 1800s resulted the power of the King being usurped by local administrators installed by the British. As part of the ‘indirect rule’ system (Killingray, 1986; Berry, 1992; Mamdani, 1996), British colonial policy allowed communities “[...] to administer according to their tribal customs as far as possible but under certain reservations” (Collins & Herzog, 1961: 128, See also: Collins, 1976). Yet the British had a tendency to appoint cooperative chiefs and depose the others, a practice that seriously undermined the local legitimacy and authority of the chiefs (Lomodong, 1995; Simonse, 1992). Furthermore, administrative chiefs could appoint sub-chiefs and police, disrupting the functions of the existing bodies (Lomodong, 1995). However, colonial interference in local governance

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thus use ‘King’ (Simonse, 1992). In modern times, Rainmaker seems to be a more appropriate term as the formal state has removed almost all specific political roles of the King.

<sup>45</sup> In many cases, within these roles there is little distinction between ‘traditional’ sacred power (e.g., the rainmaker’s or landlord’s rituals) and political power (Simonse, 1992). Thus, ‘traditional’ spiritual leaders have great political importance to communities.

<sup>46</sup> *Monyomiji* governance can be found in Juba, Torit, Ikotos (Ikwo), Lafon (Lopa), and Magwi counties. Specifically, it has been identified in Lotuho, Lokoya, Lopit, Oriorok, Lango, Dongotono, Logir, Lulubo, Pari, Acholi, and Tenet ethnic groups (Simonse, 1992). Variations of this system can also be found in the Bari and Murle governance systems (Kirimoto, 1998).

<sup>47</sup> *Monyomiji* comes from ‘owners’ (*mony*) of the ‘village’ (*amiji*) (Kirimoto, 1998).

<sup>48</sup> By drawing attention to the failings of the older *monyomiji* class – inability to protect or settle disputes with neighbouring communities – the new *monyomiji* set transitions to power. The transition is different between groups in terms of length and rituals that signify transition. After transitioning to power, the new *monyomiji* class will stay in power until the process repeats itself – usually every 12-15 years (Kirimoto, 1998).

<sup>49</sup> The constitution evolves over time, reflecting the priorities of each age set (Simonse, 1998).

<sup>50</sup> Though the ‘Egyptian’ role during this time was minimal: “The Anglo-Egyptian Condominium Agreement of 1899 was intended to preserve the fiction that Sudan was being jointly administered with the Egyptians. The British, of course, were in full control” (Collins, 1976: 6).

was paired with general indifference toward the South: the region had little economic development, infrastructure, and was difficult to govern (Collins, 1976; Deng, 1995). So, for example, when the *Land Ordinance* (1906) formally released all land to the colonial government, land in the South was, in effect, left to the communities. So while the South was able to avoid much of colonial rule, the policy of ‘separate development’ also set the South up to lag behind the North (Collins & Herzog, 1961).

In the lead-up to Sudanese independence in 1955, the British began the process of replacing British officials with suitable local replacements. These replacements tended to be northern as a result of better education and political integration in the North (Johnson, 2011). As the newly formed Sudanese government established itself, the South was excluded from decision-making as a result of the First Sudanese Civil War<sup>51</sup> and, after the war, continued economic and political neglect. For example, in 1970, Khartoum introduced the *Unregistered Land Act*. The Act granted the government control over any land which had not been registered under the colonial *Land Settlement Registration Act* (1925) – a law that had not been implemented in the South (USAID, 2010a). With no land registered in the South, the government had the power to exploit land, water, and oil resources with no duty to consult or compensate local communities. These grievances played a significant role in inflaming the Second Sudanese Civil War (Shinn, 2004).

The Comprehensive Peace Agreement (CPA) signed in 2005 has now given the southern government an opportunity to reform the southern political and economic arena. In contrast with colonial and northern policies, community land access is being secured through a number of measures, but most notably the *Local Government Act* (2009) and the *Land Act* (2009), which promote decentralization to local authorities and respect for customary land systems and community interests, respectively.<sup>52</sup> This approach recognizes the need to integrate very different legal and normative systems into a single

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<sup>51</sup> As discussed below, the First Sudanese Civil War (1955-1972) was inspired in part by southern resentment towards a unitary independent Sudan as opposed to a federal system that would allow a degree of southern autonomy. While the peace agreement that ended the war created a southern autonomous region, the implementation of the agreement was limited and failed to address southern grievances.

<sup>52</sup> While not yet passed by the Council of Ministers, the Southern Sudan Land Commission (SSLC) has also been tasked with developing a national land policy that will set common standards for land management across the country in consultation with communities across all ten states, though when the Commission was established in the interim period, it had very little power as it had to cooperate with the National Land Commission in Khartoum (Johnson, 2013).

coherent structure (De Wit, *et al.*, 2009). By embracing local informal institutions while also creating formal legal structures where informal institutions have been altered (Mennen, 2007; Mennen, 2012), this approach recognizes that informal systems can have a higher capacity to deal with local grievances (including land) quickly and with greater local satisfaction – providing time-tested legitimacy in a way that the state cannot (Bruce & Migot-Adholla, 1994; Bierschenk & De Sardan, 1997; Platteau, 2000; Pimentel, 2010). In the case of South Sudan, the importance of cultural identity and local heritage in informing nearly five decades of civil conflict makes it “[...] virtually impossible to discuss a legal system for Southern Sudan that does not include major contributions from customary law” (Mennen, 2007: 2, See also: Danne, 2004; Pimentel, 2010). This does not mean that the legislation has not created some degree of standardization. Under the *Local Government Act* (2009), communities in South Sudan are administered through several layers of local and regional governments. Each of the ten states is sub-divided into counties and each county is sub-divided into several *payams*. *Payams* then oversee a number of local communities or *boma* via Payam Administrators and their local counterpart, a paramount chief.

Customary governance systems continue to play an active role in communities (Kirimoto, 1998). However, the imposition of new formalized local government structures by the state has caused fragmentation of local authorities and overlapping duties. Most notably, new administrative structures have challenged dispute resolution and local security provision in the East Bank (Simonse & Kirimoto, 2009). Communities have struggled with these administrative conflicts to varying degrees and, as discussed below, have negotiated these pressures using various strategies. The following section provides a brief overview of Eastern Equatoria during the Second Sudanese Civil War, providing context for continuing insecurity and challenges to post-war recovery.

#### *Civil war in the East Bank: Contextualizing social, economic, and political upheaval*

Civil conflict in Sudan was not, as some simplified accounts assume, completely characterised by the conflict between the ‘Islamic-Arab’ North attacking the ‘Christian-African’ South. Instead, the First and Second Sudanese Civil Wars were characterised by

a great deal of south-on-south violence and factional fighting. In both conflicts Eastern Equatoria State was symbolically and militarily significant. As a result, communities in the East Bank experienced a great deal of violence and lingering militia activity, contributing to the challenges these communities face in the post-war era.

Torit, the capital of Eastern Equatoria, is considered the birthplace of the First Sudanese Civil War: on 18 August 1955, Equatorial Corps soldiers in Torit revolted in protest of Northern administrators gaining control of southern posts formerly occupied by the British (Collins, 1976; Johnson, 2011). Only a few months later, on 1 January 1956, Sudan gained independence amid conflict sparked by that revolt - the 'Torit Mutiny'. The conflict did not cease until the Addis Ababa Peace Agreement was signed in 1972. But the peace did not last for long.

Following a decade of reoccurring disputes of the agreed upon 'semi-autonomous' southern region that was established by the agreement, the state slowly descended into renewed conflict in 1983. The Sudan People's Liberation Movement/Army (SPLM/A), the dominant guerrilla force and political actor in the Second Civil War, began launching attacks on government forces in the Equatorias in the mid-1980s and later seized Torit as their headquarters.<sup>53</sup> However, many Equatorians felt alienated by the Dinka<sup>54</sup> leadership (Branch & Mampilly, 2005; Johnson, 2011) and the SPLA's push for a 'separate but united' Sudan was in opposition to widespread separatist leanings in the region.<sup>55</sup> It was this dissatisfaction that allowed the SPLM/A-Nasir<sup>56</sup> faction to gain such a foothold in Eastern Equatoria. By 1992, only a year after the SPLM/A-Nasir became active, the SPLA had been driven out of Torit. This provided the opportunity for the government in Khartoum to re-establish military presence in Eastern Equatoria by formalizing ties with the SPLM/A-Nasir (now SPLM/A-United)<sup>57</sup> and the Uganda-based Lord's Resistance

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<sup>53</sup> The SPLM/A is sometimes referred to as the SPLM/A-Torit for this reason.

<sup>54</sup> The Dinka are the largest ethnic group in South Sudan. Many of the prominent members of the southern liberation movement were Dinka, including head of the SPLM (John Garang) and commander of the SPLA (Salva Kiir).

<sup>55</sup> On the other hand, the Northern approach, which was marked by militant Islam and its 'pariah state' status, kept the Equatorians from completely dismissing the approach of the SPLM/A (Johnson, 2011).

<sup>56</sup> The SPLM/A-Nasir faction was founded by Riek Machar in 1991.

<sup>57</sup> It goes without saying that there were deep contradictions within the various militia factions. In this instance, SPLA-Nasir, which had arisen out of a desire to push for South Sudanese self-determination, was supported by the Government of Sudan and in turn was supporting the political and military objectives of the Northern government – primarily Sudanese unity (Johnson, 2011).

Army (LRA) (Johnson, 2011). Conflict in the region intensified as the SPLA, with the support of the Ugandan Government, attempted to expel Khartoum and the aligned factions (Kaplan, 2008). Adding to the chaos, the Equatoria Defence Forces (EDF), comprised primarily of Lotuho<sup>58</sup> and Lokoya communities (Young, 2003) of the East Bank, emerged to take up the SPLA-United role in Eastern Equatoria<sup>59</sup> after it had dissolved in 1995.<sup>60</sup> The EDF quickly became one of the most effective southern militias aligned with Khartoum (Walraet, 2008), controlling much of Central and Eastern Equatoria including the areas around Juba and Torit (Young, 2003; Arnold, 2007; McEvoy & Murray, 2008).

By 1999, the Government of Sudan and the Government of Uganda signed the Nairobi Agreement, agreeing to stop supporting rebels groups operating in the Equatorias. In 2002 the Government of Sudan and the Government of Uganda launched ‘Operation Iron Fist’<sup>61</sup> that permitted the Ugandan army to enter southern Sudan to expel the LRA. This period was marked with a high level of violence and displacement in the western portion Eastern Equatoria. Despite the heightened violence in the East Bank, the North and South were moving towards a negotiated end to the war. In 2005, the Government of Sudan and the SPLA signed the CPA – putting an end to the Second Civil War.

The CPA did not address many of the peace and security concerns for Eastern Equatoria. The EDF along with a number of other factions were excluded from the peace process. It was not until 2006 that remaining southern factions were dissolved through the Juba Declaration (Young, 2006; Walraet, 2008), though even after the Declaration the state

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<sup>58</sup> ‘Lotuho’ is used most commonly in key anthropological texts (See: Grub, 1992; Simonse, 1992; Lomodong, 1995; Simonse, 1998; Kirimoto, 1998), but the alternative spellings ‘Latuka’ is commonly used in reporting and academic literature. ‘Latuko’ and ‘Lotuko’, while less common, are also used.

<sup>59</sup> The EDF was one of the three central groups associated with the South Sudan Defense Forces (SSDF), an umbrella movement that comprises several southern armed groups opposed to the SPLM/A, organized under SPLA-Nasir founder Riek Machar. Rather than a cohesive unit, the SSDF was a loose coalition of militias that pursued local agendas against the SPLM/A autonomously (Arnold, 2007). They are linked by a shared commitment to a Khartoum Agreement (1997) with the Government of Sudan that was intended to pave the way for a referendum and allowed for oil revenue sharing (Young, 2003). Though the Agreement dissolved quickly, the link between these factions and the Government of Sudan remained.

<sup>60</sup> The SPLM/A-United dissolved and re-emerged as two factions. The first, the new SPLM/A-United, was under the control of Lam Akol. Lam Akol later served as the Minister of Foreign Affairs and the Minister of Cabinet Affairs under the Government of National Unity (Government of Sudan and SPLM). He is currently the leader of the SPLM-Democratic Change party in the South Sudanese parliament. The second was the South Sudan Independence Movement (SSIM) under Riek Machar.

<sup>61</sup> By some accounts, the renewed interest in the Nairobi Agreement was a result of pressure from the US State Department –the LRA was listed as a terrorist organization by the US in 2001 (HRW, 2003a). At the time, the Government of Sudan was attempting to demonstrate to the US that it did not support terrorism in order to avoid sanctions due to the conflict in Darfur.

remained volatile (Schomerus, 2008; LeBrun, 2010; UNDP, 2010). The LRA continued to be a concern (Gurtong, 2005) with attacks on communities continuing well into 2007 (Sudan Tribune, 2007a; Sudan Tribune, 2007b). At time of writing, security has improved; however, local conflict, banditry, and unexploded ordinances present ongoing challenges. Decades of conflict have led to a high degree of displacement and, as security has only recently improved, resettlement continues. At a larger scale, the political arena is still fractured and many Equatorians remain suspicious of the SPLM/A agenda (McEvoy & Murray, 2008).

### *Study area & research methods*

The ‘East Bank’, is located in the hills environmental zone (Figure 2). Local populations in this area are characterized by their reliance on subsistence agriculture (Muchomba & Sharpe, 2006; WFP, 2006; USAID, 2010a), primarily comprised of millet, sorghum, groundnuts, and seasonal vegetables (Grub, 1992; Lomodong, 1995). Many households also supplement agriculture with a range of livelihood strategies including wages (labour or selling crops), livestock, and brewing alcohol, among others (Appendix 1). Regardless, the availability of land is an important factor for securing a stable livelihood. At the village-level, land could be categorized as ‘community land’, but is not necessarily communal. Within communities plots are held by individuals or households<sup>62</sup>, which are collectively held by several clans or lineages.<sup>63</sup> Above the clan structure, the land is held by the community and administered through a chief and the ‘landlord’ – the ‘chief priest’ of the land - who oversees spiritual elements of land and prepares land for cultivation.

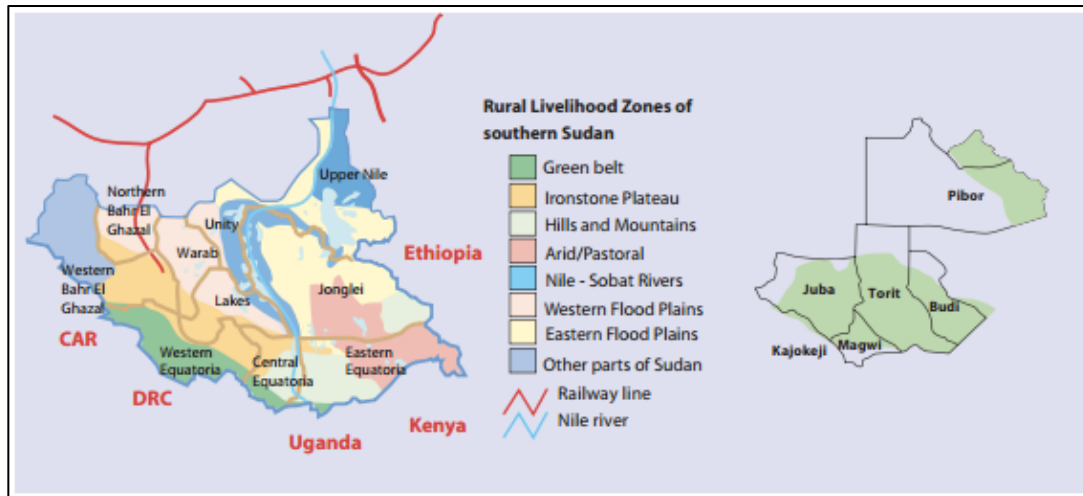
Figure 2: *Hills and Mountain Livelihood Zone*

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<sup>62</sup> Though plots are held individually, cultivating has cooperative aspects such as group planting and weeding (Lomodong, 1995). There are two types of cooperative labour *eruai* (extended family-based cooperation), *ahetai* (community based cooperation), *elulung* (age-based cooperation) (Grub, 1992).

<sup>63</sup> While clans are generally formed by those who claim similar ancestry in a patri-lineal sequence, this is an imprecise characterization. ‘Strangers’ may be adopted into clans for various reasons including to create ties between villages or increasing security by numbers (Grub, 1992). So it is possible for a clan to consist of a variety of members from distinct backgrounds, sometimes resulting in the creation of ‘sub-clans’.





Source: Muchomba & Sharpe, 2006.

According to the last census in 2008<sup>64</sup> and UN projections, Eastern Equatoria has been experiencing population growth since peacetime due to the influx of returnees (WFP, 2010). Some reports indicate that population shifts have inflamed conflict over land and resources in the region (Schomerus, 2008; Leonardi, 2011).

This research study engaged one pilot community and seven study communities, all located in the East Bank. For ease of access, communities selected were located along the Juba-Bor, Juba-Torit, and Torit-Kapoeta roads. The study employed a mixed methods approach (Tashakkori and Teddlie, 1998). Quantitative data was collected using household surveys. Household surveys were conducted using walking systematic sampling in attempt to randomize surveyed households to the greatest extent possible (Kothari, 2004), with the understanding that, in a post-war context, one cannot truly have a precise understanding of a population due to migration, ongoing IDP settlement, and lack of data. Qualitative methods consisted of structured interviews and semi-structured individual and group interviews. Structured interviews were constructed with the same questions used in the household surveys with the intention of complimenting data gathered in surveys, focusing on: determinants to access to land; perceptions of land tenure, and livelihood security; and, land acquisition processes. Semi-structured interviews focused on community leadership as randomly selected households. Group

<sup>64</sup> The Government of Southern Sudan rejected the results of this census in 2009 as it did not believe it was an accurate representation of population distribution and should therefore not be used as a tool for deciding wealth and power sharing with Khartoum (*Sudan Tribune*, 2009).

interviews were only conducted with community members, rather than leadership (chief, *payam* administrator, and landlord). Semi-structured individual and group interviews focused on: resettlement and land access, livelihoods; community strengths and challenges; land conflict; and experienced and ideal procedures for land acquisition. Key informant interviews were also conducted in Juba and Torit with relevant national and state government officials, as well as non-government organization (NGO) and civil society organization (CSO) staff.

While a mixed methods approach was used, the interpretation of the results is largely qualitative. This study relies heavily on information collected through structured interviews as well as semi-structured interviews to contextualize numeric perception data gathered in the household surveys. To add additional context to the findings, data was also gathered through a review of secondary sources, including academic literature, news sources, and grey literature.

#### *Diversity of challenges to local land access and tenure security*

While seven villages were included in the study, the following section profiles three *boma* that demonstrate a large degree of heterogeneity in a similar ‘zone’ or region in order to provide a clearer picture of the challenge of post-war land management in the East Bank. The *boma* name have been kept confidential to provide assurance to communities that they would not be punished for sharing sensitive information, in accordance with this study’s research ethics application. The selected *boma* include:

1. *Boma A*, rural, is a relatively large community located in Central Equatoria State near the border with Eastern Equatoria state and is ethnically homogenous (Lokoya). Residents rely primarily on agriculture and can access land through ancestral claim to certain land.
2. *Boma B*, peri-urban, is sprawling community located near Torit, Eastern Equatoria State. During the conflict the community was not settled and is comprised of returnees and voluntary migrants from across the state. It is located on traditional Lotuho territory. In contrast to the neighbouring rural communities, livelihoods are very mixed. This *boma* has undergone some land titling.
3. *Boma C*, rural, is a small community located in Eastern Equatoria state located between *Boma A* and *Boma B* in Eastern Equatoria State. It is ethnically homogenous (Lotuho) and, though it experienced high levels of displacement during conflict, no one settled the

abandoned land during the original community member's absence.<sup>65</sup>

These three *boma* fall in a similar socio-cultural zone and should thus have similar 'traditional' management practices and challenges in the post-war era. The following section provides a more detailed look at the three communities outlined above. This is followed by a discussion of the variations in land pressures and coping mechanisms. They are presented in two broad categories: internal and external. 'Internal' pressures are linked to problems that originate from within the community such as, for example, conflict between residents and local governance issues. 'External' challenges are problems that were identified to originate outside the community. This can include, for example, returnees, military-civilian conflict and private investment. For a broader view of the communities studied, Appendix 1 provides a brief comparison of characteristics of the seven study communities relating to displacement, land, and livelihoods.

#### *i. Boma A*

Boma A is a relatively large rural community located in Central Equatoria State near the border with Eastern Equatoria state and is ethnically homogenous (Lokoya). During the war, the community experienced a great deal of displacement, with many community members fleeing to the hilly areas surrounding the present location of the community.<sup>66</sup> After the CPA in 2005, many community members slowly began to resettle in the valley. Even though many of the community members have deemed the area safe enough to return, security was identified as a primary challenge for the community. Child abduction and banditry are ongoing concerns and many respondents expressed fear of being in the rural areas alone or at night. These incidents are blamed on the Murle ('Yau Yau' militia<sup>67</sup>) and the Lord's Resistance Army (LRA), which community members say have come to the *boma* twice in six months (since January 2013).<sup>68</sup> In reaction to this, communities in the rural areas have been reconfigured. The chief, who also happened to

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<sup>65</sup> It was noted that outsiders were not unwelcome. However, if others were to come, they could have land but it would be understood that they would be borrowing it from the community for an extended period rather than gaining an indefinite claim.

<sup>66</sup> In the past, many Lokoya lived up in the hills but in modern times most live along the main roads (Simonse, 1992).

<sup>67</sup> The Yau Yau rebellion is a 'Murle militia' formed by David Yau Yau following elections in Southern Sudan in 2010 (though some claim Murle politics, rather than national politics, are the group's motivation). Initially, the Yau Yau were primarily operating in Pibor County in Jonglei but have since expanded to areas of Eastern Equatoria. The Government of South Sudan claims that the Government of Sudan has provided military support to Yau Yau (HBAS, 2013).

<sup>68</sup> While there is limited evidence that either group is active in the region and the government has actively denied activities by these groups in neighbouring areas (Gurtong, 2013), this is the claim put forth by community members. In fact, the insecurity is so attributed to the Murle that children will scream as they are taunted that the Murle are coming to get them.

serve as paramount chief for the *payam*, stressed that fewer community members lived on the land than previous to displacement. In the past, households were spaced in fenced homesteads with small garden plots, but as IDPs and refugees began returning, households clustered around military and police posts due to security concerns. Presently, households are close together with limited fencing and family gardens are in the bush. There was speculation among community members that, once security is no longer a concern, the community would once again shift land holdings – abandoning land near the roads and police outposts and expanding into the rural areas.

Nearly all respondents reported having access to adequate amounts of land. However, in contrast to all other studied communities, some of those who had access to land did not feel they could ensure its security in the future. These concerns were linked to the soldiers stationed at outposts taking land and family concerns (*e.g.*, too many children to sub-divide land and becoming a widow). Relatively few people in this community felt that their livelihoods were currently ideal – and few mentioned that they are ideal only in comparison to wartime and refugee camps. Those expressing negative feelings have largely linked this to environmental pressures such as drought and crop failure, while others feel that agriculture alone cannot support their families as they have inadequate number of small livestock or they have no cash income to pay school fees.

*Boma A* has had high exposure to NGOs and various levels of government. Specifically, government representatives had approached the community in regards to planned road expansion. The road is to be widened from the current 5 meters to 40 meters in January 2013, but during field research no construction had taken place. An international NGO has built an 8-classroom school in the community. The flexibility provided by land abundance and maintenance of community cohesion throughout successive waves of displacement has allowed the *boma* to manage the reorganization of settlements and manage ‘external’ land pressures such as government and donor land acquisition easily. However, concern about soldier’s rights to acquire ‘community land’ or not as well as challenges that widowed women face provide some tension. Some respondents noted

challenges reporting land grievances to the local administration, citing arrest if a critical opinion was expressed.

*ii. Boma B*

*Boma B* is a sprawling community located on the periphery of Torit in Eastern Equatoria State. During the conflict the community was not settled but as the war came to an end there was an influx of voluntary migration and returnees. As a result, the *boma* is settled in clusters based on the time of settlement. In contrast to the neighbouring rural communities, livelihoods are very mixed. Subsistence agriculture exists alongside wage labour (varying from local NGO staff to hired labour for cultivation), charcoal, and alcohol brewing. This community did not express marked concern about security and suggested (unsurprisingly) that the war ending has improved their livelihoods substantially.

The area traditionally belongs to the Lotuho, though is presently very heterogeneous. Almost all people with access to land were Lotuho and reference their ancestors' historical claim to the land as the reason they could access land presently. People who believed that there was not enough land for everyone related this problem to a number of factors. Firstly, many respondents felt their lack of land was related to them being a recent returnee and thus had not yet established themselves in the community. While others recognized land was a finite resource and the growing population meant fewer parcels were available. Others believed that land titling has added additional pressure and led to local land-grabbing: "people here are scrambling for land" and land was being "grabbed by community members".

One respondent (Male, Lotuho, 48) illustrates: "I came back in 2002 to get land and when I came I just built my house here...the lady over there owns this land, but I just built my house here...in the future, I want demarcation so I can formally get this land". He then reflected that the woman did not want this, but it was inevitable because demarcation and road construction were set to begin January 2014. This perception was shared by many informants who felt that titling would provide stability in the way that holding land as 'first-comers' simply could not provide. However, it may suggest that women and other

vulnerable populations might experience increased insecurity (Joireman, 2008; Meinzen-Dick & Mwangi, 2008; Toulmin, 2008; Pantuliano, 2009; USAID, 2010b). To illustrate this point further, a younger female respondent (Lutuho, 21) had acquired land through a similar process. However, unlike her male counterpart, she believed that, despite building a house, demarcation would not settle in her favour. She felt her positive relationship with the landlord is the only thing that would guarantee security of the land she currently occupied, but, once again, roads could threaten that.

The importance of titles being distributed fairly has already had consequences for this *boma*. Residents with titles noted that they had a different experience with then those without. An NGO was given land and residents in this area were not provided replacement land. One informant had lost a garden in the process and was concerned that this would happen again if the government chose to build roads – though they would at least have to pay attention to people who had titles. Demarcation is met with approval but also with fear. Demarcation was a sign that the government intended to build roads and if you were not demarcated, there was a suspicion that that is where the road would go. The response to acquisition without consultation or compensation was ‘land belongs to the community’. Respondents reported that land titles can be purchased from the Eastern Equatoria Ministry of Housing and Physical Infrastructure for 1200 South Sudanese pounds (SSP), or approximately \$375 US, and can be repaid over time.

### *iii. Boma C*

*Boma C* is a small community located in Eastern Equatoria state in a payam adjacent to Nyong (Torit) payam. It is ethnically homogenous (Lotuho) and, though it experienced high levels of displacement during conflict, no one had settled the abandoned land during the original community member’s absence.<sup>69</sup> In this sense, there has been minimal disruption to community practice and has not led to substantial conflict between community members. However, *Boma C* is now being pressured by the neighbouring *payam*, the *payam* with ‘*Boma B*’, because of the land pressure in those communities. They have been here for over a century and that is the proof that they have to owning this

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<sup>69</sup> It was noted that outsiders were not unwelcome. However, if others were to come, they could have land but it would be understood that they would be borrowing it from the community for an extended period rather than gaining an indefinite claim.

land over the people in the neighbouring *payam*. These people in the neighbouring *payam* began being a problem after the CPA and had elected their own landlord to do the land rituals to make an official claim to *Boma C* community land. As a result of these conflicts, the community would not be opposed to these borders being demarcated. The community has discussed land surveying and what would happen if surveying would take place. They discussed that they wouldn't mind having their households surveyed, but they would not be comfortable having the cultivated areas surveyed because they are ancestral boundaries.

There is trust in the government taking land for projects that may bring economic development or other communal community benefits. Indeed, communal benefit for land access from 'outsiders' was expected – whether government or private interests. There was, however, a distinction between which parcels are acceptable for use – while the government could claim any piece of land, even land with households – companies and non-governmental organizations would have land selected for them by the community. This land would always be community land or abandoned land. The community had already experienced a great deal of external investment and therefore had experience negotiating land acquisition. A South Sudanese-owned water bottling plant had been built in consultation with the community. Benefits were negotiated directly and included items of communal benefit, in this case a clinic and a supply of medicines. The chief and the landlord had made an 'informal formal' written contract with the company to ensure these items were supplied to the community in a reasonable timeframe. If not, the leadership felt secure in knowing they had proof of the promises. The procedure for accessing land was also well established within the community leadership, but was also being reworked in light of investment and perceptions of formal contracts.

#### *'Internal' land access and tenure security challenges*

The return of IDPs and refugees – who may or may not have originated from the community before the conflict – and the volume of voluntary migrants, has led to a degree of flexibility in conceptualizing future land access. Those who are considered among the dominant ethnic community are more likely to report land access than

‘outsiders’. This is particularly marked in the peri-urban areas where land competition is high amongst all members. For example, in *Boma B*, land access is relatively low – but of those that report access to land all, with one exception, are Lotuho. This suggests that traditional claim to territory holds in rapidly urbanizing areas. One mitigating factor to ‘outsiders’ gaining access seems to be time settled in the community. Those reporting more than five years in the community had an increased likelihood of gaining access to land. In the above example, no respondent with access to land reported living in the community less than five years. It is unclear if this means that community members are absorbed after several years or whether land access was guaranteed due to the absent population during conflict.

In the peri-urban communities, population-to-land ratios are understandably shifting as more people move to the urban areas to seek new opportunities such as employment or better access to services. Urbanization presents challenges to traditional land management practices (USAID, 2010c) as the population becomes increasingly heterogeneous and unstable - precisely the situation that the plural land system should remedy. As the customary practices become murky, individualization and formalization of tenure should equalize community land holders and provide a stable framework under which the community can operate. Over time, this reinforces the final breakdown of local practices (Boone, 2007) or ‘cutting the web of interests’ (Meinzen-Dick & Mwangi, 2008) between individuals and community by limiting the type of rights that may be associated with any given parcel of land. Community members are defined by their choice in affiliation – they become a member when they choose to acquire land (Boone, 2007; Meinzen-Dick & Mwangi, 2008).

In practice, this natural ‘evolution’ to formal tenure has substantial barriers even within a geographically small area. As the case of *Boma B* demonstrates, the implementation of formal titling has caused insecurity among community members who fear their land will be seized before it is demarcated or fear that individuals will settle and then make claims on portions of their land when titling occurs. While some studies suggest that the problem is that official titles remain out of the hands of most people due to a variety of political,



economic, and social barriers (Lund, 2008; Toulmin, 2008; Deng, 2011a; Leonardi, 2011), in the studied communities the lack of systematic or predictable patterns for surveying seemed to be the greatest concern in the immediate term. This has created confusion between ownership and use – particularly when use is in some instances deemed to represent ownership, while in other instances it is not. Thus, titling is creating both security and insecurity among the population. Titling is labour intensive for the government; it must take over the functions of local agents in registering and protecting individual ownership to land. This requires a great deal of capacity and human resources – not just in the titling process, but in the maintenance of records (Cortula, et al., 2004; Boone, 2007). The government’s lack of capacity to act decisively has not gone unnoticed. Those who had been titled also questioned the efficacy of government planning: “The government forced us to demarcate, and we did because we expected to see roads and water – why have we not seen this?” and “the government needs to know that land belongs to the community”.

In contrast to the rural communities, security in this sense would entail securing the same parcel of land for extended periods rather than relying on the perception that ‘some land, somewhere’ will be available as needed. It is also interesting to note, again, that respondents reporting land access in the peri-urban areas were able to make some ancestral claim to the land even though the titling processes underway could threaten the validity of that claim. As Pantuliano (2009: 157) has noted, “IDPs and refugees are increasingly choosing to return to urban areas instead of moving back to their rural home areas”. While research on urbanization and the appropriation of Bari land surrounding Juba has begun (Pantuliano, 2009; USAID, 2010b) further research needs to be conducted in other rapidly expanding urban centers across South Sudan on how traditional claims and titling are being negotiated in practice. It is particularly important to monitor titling processes due to the challenges that have been presented by Juba – including titling the same plot to multiple individuals, elite capture, increasing division among the Bari ‘community’, and exclusion of women (Pantuliano, 2009).

Boma C exists outside of the bounds of what would be considered peri-urban, but has been exposed to the concept of titling through communities located closer to Torit. In some aspects of land management, this has led to a degree of ‘informal formalization’ (Lavigne-Delville, 2003; Mathieu, et al., 2003; Peters, 2009: 1319) or “a hybrid and legally organised procedure, at the interface between administrative procedures and custom” (Mathieu, et al. 2003: 120-121, quoted in Peters, 2009). This has been demonstrated in the manner in which this community has engaged external investors. Specifically, the community had determined through customary procedures what land could be allocated for the outsiders, but then insisted on a ‘contract’ between the community and the company that detailed the land and – more importantly – the specific benefits that were promised to the community in exchange for access to the land. To be clear, the land is not considered formally titled, but the community perceives there is something to be gained by adopting ‘formal’ paperwork-filled procedures.

While several respondents could identify clan land, many also recognized that others ‘borrowing’ land to compensate for changes was common and generally did not lead to problems amongst community members. Surveyed communities did not appear to be bothered by the prospect and might, as in the case of Boma A, see land shifts as a slow return to ‘normal’. In the majority of instances, once any amount of land was secured, whether deemed adequate in amount or not – there was not a sense that land would be lost in the future. In the case of Boma C, shifting household plots are not perceived as a symptom of insecurity and may occur regardless as a result of environmental factors (e.g., river water level fluctuations) – or a small price to pay for external investment that could be parlayed into local services. Thus, these communities expressed a high tolerance for change in the specific parcel of land they cultivated; many challenges often had or were anticipated to have a relatively benign effect on rural communities. The availability of ‘abandoned land’ in these two examples underscores the importance of abandoned land in mitigating disputes, allowing for community expansion and as compensation in inevitable displacements caused by economic development, road expansion, and other land-intensive activities.

While much of the research on ‘outsider’ land pressures in South Sudan focuses on large-scale land grabs (Deng, 2011a/b, Pantuliano, 2008; De Wit....etc..), communities are also experiencing a great deal of pressure from other sources. The most frequently cited concerns thought to impact land access and tenure security related to military-civilian relations and *boma* and *payam* boundary disputes. Continued insecurity in Eastern Equatoria has led to a strong presence of security forces, notably in communities nearby main roads. The presence of security forces has changed land-use in two discernible ways. It has changed local land distribution and paved the way for ‘outsiders’ (police and military) to gain access to land, with or without community consent. On the first point, some communities have changed settlement locations and settlement patterns as a result of security concerns. As demonstrated in the case of *Boma A*, community members have settled on ‘borrowed’ land outside of their clan lands with the intention of resettling when the security situation is ameliorated. As a result of such land dynamics, any land and livelihood policies implemented now would not reflect how communities envision themselves changing in the future (i.e., expanding back into the rural areas) and thus may have ill-intended consequences. To the second point, some communities did report ‘outsiders’ such as police and military gaining access to community land, with or without the blessing of community leadership. However, this dynamic is complicated by the fact that the relationship is, at the same time, uneasy yet dependent; although the military land use presents a challenge, the security provided by soldiers is usually believed to be beneficial. This pattern was observed most strongly in the pilot community. Residents of the pilot *boma* suggested that they had uneasy relationships with the security forces, which included land theft while community members were displaced and child abduction. However, the community had also suggested that the military base offered protection from banditry experienced in other communities. This is not to say negative feelings towards military were universal, some community members did report ambivalent or positive relationships with security forces.

In addition to military land pressures, other ‘outsiders’ putting pressure on communities are neighbouring *boma* and *payam*. Complimenting findings from USAID’s 2010 study of Juba County, chiefs are frequently engaged in negotiating disputes with neighbouring

communities. Particularly in communities that, while still rural, are facing pressure from *payams* in the process of being absorbed into the urban periphery (USAID, 2010c). For example, a respondent from *Boma C* referencing a land conflict with the neighbouring payam stated, “This land conflict began after the CPA – they have gone as far to elect their own landlord to do rituals on the land they claim and they reject our landlord”. In this instance, common local practices and language are used to distribute community land (See also: Leonardi, 2011) but the dispute becomes about formalized administrative boundaries as they relate to traditional ancestral boundaries. It is, however, important to note that inter-community boundary disputes are not a new post-war phenomenon (as other research has pointed out (Platteau, 1996; Platteau, 2000)) and community leadership, including the *monyomiji*, would have managed these disputes.

### *Conclusion*

Land conflict in post-war settings is problematic, not just locally, but at a large scale not only because of the livelihood implications, but in the diverse political challenges it presents in a short time frame (Unruh, 1998). Over time, the literature on land in Africa has continued to debate the merits of statutory (formal) and customary (informal) law and, more recently, the extent to which reform of either of these systems should be state or community-led (Bruce & Mighot-Adholla, 1994; Toulmin & Quan, 2000). As in some other African countries (Chimhowu & Woodhouse, 2006), South Sudan is setting itself up to have different land systems depending on settlement type (*i.e.* urban versus rural), but as the cases make clear – the lines are not clearly defined between customary and formal, with each system borrowing tools and assumptions from the other. In the urban and peri-urban areas, individual titles will undoubtedly reshape the political community of the urban periphery who will no longer be defined by a customary authority, yet those who are able to have a more legitimate claim to land tend to be of a dominant ethnic ‘community’. However, changes are not just happening in the urban areas. Returnees, security challenges, and demands on land from the donor community as well as private interests are also putting pressure on the rural areas that have developed flexible methods to deal with land pressure. In some cases, this means integrating military personnel and government administrators into the ‘community’ and in others, working hard to maintain customary boundaries and keep land free of outsiders.

Beyond the challenges of whether formal or customary law should prevail and in what circumstances, at the heart of much of the land issue in the East Bank is defining what constitutes the baseline right to access what land. Should land access be based on wartime effort, nationality or ethnicity or on use or occupancy? (Leonardi, 2011). In the literature, ‘community’ seems to be defined as ‘those who are entitled to consultation’ (Deng, 2011a) or those who can identify with a specific ethnic group (Branch & Mampilly, 2005; USAID 2010c). As this paper has demonstrated ‘community’ is not a monolithic concept – and thus who land belongs to varies from place to place. The implications of defining community land are far-reaching: those who are able to control the land now are guaranteed certain benefits in the future – rights to livelihoods, political representation, and consultation. The post-war era has led to a reordering of the state’s interaction with communities and communities’ interaction with the state. Decentralization of matters relating to land are a reasonable choice in a complex post-war setting with little human and financial resources available, but this scenario seemingly forces the difficult discussion about what is the precise meaning of community in reference to the state, law, and individual rights in the coming years so local interpretations are not solidified in the interim.

Appendix 1: Land and livelihood characteristics in seven sample communities, Central and Eastern Equatoria States

	Payam headquarters	Setting	Ethnic identity <sup>70</sup>	Displacement trends	+50% reported displacement	+80% reported displacement	IDP (%)	Agriculture as sole livelihood (%)	Partial reliance on agriculture (%)	Wages as sole livelihood (%)	Portion of liv on wages (%)	Access to land (%)	Adequate land (%)	There is enough land for everyone (%)	Of those that have land, Fear losing land in future (%)
Boma A	+	Rural	Lokoya	1986-1989; 1991-1993	+	+	70	47	94	6	6	88	82	75	20
Boma B		Peri-urban	Latuho, Didinga, Lopit, Boya, Madi, Acholi,	1993-1994; 2000-2001	+		73	25	75	10	30	40	52	37	0
Boma C		Rural	Latuho	1995; 2002-2004	+	+	85	56	88	6	25	100	100	100	0
Boma D		Rural	Latuho, Didinga	1989-1993; 2000-2003	+	+	88	63	100	0	0	88	75	100	0
Boma E		Peri-urban/rural	Latuho, Lokoya, Muru, Bari, Lopit,	1989; 2001-2002	+	+	50	50	81	0	19	69	56	75	0
Boma F		Peri-urban	Latuho, Lokoya, Boya, Kakwa, Pari, Didinga, Acholi,	1989-1993; 1998-2000	+		57	17	25	25	33	33	50	60	0
Boma G		Rural	Latuho	1986; 2001	+		60	20	100	0	60	100	100	100	0

Unsurprisingly, rural areas reported greater access to land than peri-urban settlements. It is also interesting to note that households that report access to land in the peri-urban areas have a high tendency of being Latuho no matter the amount of time they have been resettled or whether they originated from the area they currently occupy or not – suggesting that ethnic affiliation is a strong predictor of land access in the peri-urban areas. Those from ‘outsider’ ethnic groups who had access to land had been settled in the area for usually more than ten years, suggesting it is possible to gain access over time. The majority of surveyed households rely on agriculture to some extent to support their livelihoods, rural or not – suggesting land access for cultivation is a pressing concern. The most telling finding seems to be that once households have gained access to land, most do not feel they are at risk of losing their land in the future. Some of these findings are discussed in further detailed the three boma profiles.

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## V: CONCLUSION

This thesis addresses two key research objectives: to explore the southern narrative of pipeline disputes and alternative pipeline routes and to gain a general understanding of challenges to land tenure security in Eastern Equatoria, specifically the East Bank. These objectives were addressed in three distinct manuscripts.

The first manuscript (Chapter Two) addressed the capacity of oil pipelines to incentivize peace through economic gains. This chapter asserts that oil pipelines serve both state-building and nation-building purposes and therefore present serious contradictions between economic and political objectives, rather than a straightforward ‘rational’ economic decision-making model. To underscore this point, the conflict between the Sudans over the use of northern pipelines and the immense financial costs to both demonstrates that pipelines can be manipulated to serve political interests. Chapter Three expands on some of the issues presented in Chapter Two by exploring the specific reasons why oil pipeline disputes are typically overshadowed by political concerns, particularly in post-secession states. The connection between natural resources and state sovereignty are explored and a framework for understanding transboundary pipelines in post-secession environments was presented. Practically, this chapter highlights the need for peace agreements to focus on the deeply political nature of oil in the Sudans, including the importance of explicit mutual recognition of state sovereignty and clear parameters of the nature of political control over the resources, infrastructure, and revenues.

As demonstrated in Chapters Two and Three, the exclusionary management of natural resources by the Government of Sudan throughout the First and Second Sudanese Civil Wars has had a profound impact on the manner in which the Government of South Sudan has managed its oil wealth. The historical context of natural resource management has also been manifested at the local level. Chapter Four sheds light on the local experiences of gaining access and securing land in Juba and Torit counties, South Sudan. Despite being of common ‘traditional’ practices and authorities, studied communities have demonstrated a wide degree of variation in terms of land access and the negotiation of

external land pressures, such as private investment interests. It demonstrated that ‘land belongs to the community’, a statement reflecting both local and state approaches to land, will need to eventually define what it means to be a community, an increasingly challenging task.

In post-war settings, failure to address short-term natural resource management needs and the long-term needs for sustainability and equity can reignite past grievances leading to conflict relapse (Bruch, *et al.*, 2009). This research has shown that this risk is especially apparent in the case of South Sudan where oil and land are *more than simply economic assets* – they are deeply entrenched in southern political discourse. Throughout the war and in the lead-up to the independence referendum, the southern political elite have promoted ideas of petroleum resource nationalism and community-based land systems as southern values. Now, South Sudan must transition from using resources to create a narrative for the emergence of the South Sudanese state to implementation. The difficulties of this transition have been made even more evident through the present civil conflict in South Sudan.

On 15 December 2013, during a meeting of the SPLM’s National Liberation Council, conflict broke out on the streets of Juba. President Salva Kiir quickly called the acts of violence a coup attempt orchestrated by former Vice President, Riek Machar. Machar adamantly denied a coup attempt but announced the formation of a new political-military opposition movement, the SPLM/A in Opposition, and fled Juba. As fighting dissipated in the capital, widespread conflict in Jongelei, Upper Nile and Unity States between forces allied with the SPLM/A in Opposition and government forces began to destabilize the state. Regional actors were quick to step in with renewed IGAD negotiations and military support but with slightly different interests. While regional stability is likely at the heart of these concerns, massive infrastructure projects such as LAPSSET and other alternative oil pipeline plans play a role in emerging regional interests. Nearly all countries nearby countries are implicated in the future path of South Sudan’s oil network – decisions surrounding oil routes will alter the economic and political structure of East Africa and the Horn for decades to come.

A great example of this is the dramatic shift in North-South relations. While oil has divided South Sudan and Sudan in the years since independence, Sudan now supports the securitization of the oil fields – working alongside the SPLA and JEM to fend off the SPLA/M in Opposition in return for a solidified revenue sharing framework with the South (ICG, 2014). There is no doubt that the oil fields (and the potential future oil fields Jonglei State) remain conflict-ridden, but the usual allegiances have shifted dramatically. Of course, Khartoum has historically supported rebel movements in Unity, Upper Nile and Jonglei – specifically movements headed by Riek Machar. There is therefore always a risk that public statements and a few troops simply direct attention away from possible SPLM/A in Opposition support. In some respect, a destabilized southern government means the abandonment of alternative pipeline plans.

While basic peace deals were reached in late-June, discussions and countless cease-fire agreements have not led to a cessation of conflict on the ground. A final agreement about structural political changes needed to bring long-term resolution to the conflict (*e.g.*, power sharing, federalism) has not been reached. At time of writing, this civil conflict resulted in 1.4 million internally displaced persons and nearly 500,000 refugees (OCHA, 2014) and been responsible for an unknown number of deaths – both directly and indirectly (*i.e.* famine, disease).

In crisis, it is understandably difficult to prioritize these pressing issues. If not because they require a functional government to address, but because they are less immediately threatening than acts of violence. Yet, current conflict is so deeply intertwined in resolving these issues. Moving forward, this research suggests that building credible political authority from local to national levels and navigating the often-competing aims of community land access and oil and mineral development will be top priority for lasting peace.

Indeed, before the crisis, South Sudan had seen an influx of land requests for infrastructure and services from the Government itself, private interests, and from non-governmental organizations (Deng, 2010; USAID, 2010b; Deng, 2011a; Deng, 2011b). These requests are likely to continue after a political resolution has been met.

Furthermore, South Sudan will also need to re-evaluate plans for alternative pipeline routes through Eastern Equatoria state and the expansion of southern oil producing regions. Undoubtedly, the present role of Sudan in stabilizing the southern oil regions will change the Government of South Sudan's approach to oil export. The Government will also be looking to continue pre-conflict efforts to increase investment in large-scale agriculture and mining to diversify the economy and reduce dependence on oil (DeWaal, 2013; Guardian, 2013) - projects that will require a great deal of land.

Moving forward, it will be essential for the Government of South Sudan to consider the role of local communities in these land-intensive industries. Based on limited observations regarding consultation, communities are willing to give land for public interest purposes (*e.g.*, roads, schools, clinics, projects which may lead to local economic development or other opportunities) with the understanding that proper local procedure will be followed, including advanced notice. Community support for development and land acquisition is encouraging, but some preliminary work regarding consultation for access to local land suggests that there is a great deal of administrative breakdown that occurs through the layers of decentralized government. While most powers have been devolved to the states, *payam*, and communities through these laws, the Government of South Sudan has power over subterranean resources, legislation (including the regulation of land), conservation, and environmental protection. When projects come about that are under the jurisdiction of the state, county governments and *payam* administrators expressed challenges to being made aware of investments, particularly in regards to natural resources and extraction. Without warning from the national level, they are unable to notify chiefs and other important community leadership (*i.e.*, *monyomiji*, Community Development Committees (CDCs), landlords). Additional research into the highly contentious issue of local consultation and land acquisition is required so as to chart a way forward that respects both resource development and resource equity.



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## APPENDIX I

### STUDY METHODS AND LIMITATIONS

The purpose of this appendix is to provide a context for my field research, an overview of data collection and analysis techniques, and a rationale for my selected field sites that has not been captured in the three manuscripts.

#### *i. Overview*

Fieldwork was conducted in South Sudan from June 2013 to August 2013 in one pilot community, seven rural communities, and the capital city, Juba. Research was conducted with five participant groups using qualitative and quantitative research methods including: semi-structured interviews, group interviews, structured interviews and household surveys. Field sites were selected using transect sampling, though practical security and access considerations limited this technique. Participants were selected randomly for household surveys and structured interviews while group interviews and semi-structured interviews tended to be purposive. Research analysis used both manifest and latent techniques (Dunn, 2000) and despite conducting quantitative data, the data was interpreted qualitatively.

#### *ii. Field Sites*

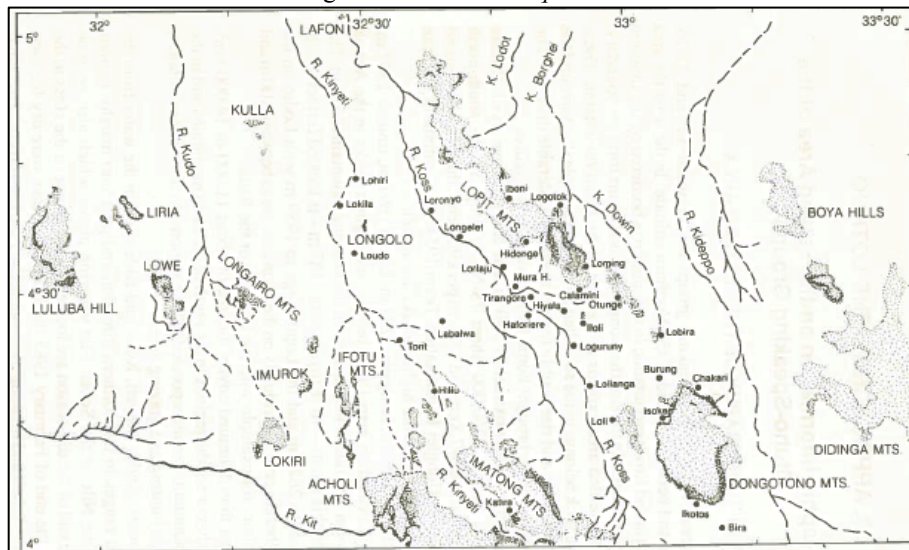
This research study engaged one pilot community and seven study communities in eastern Central Equatoria State and western Eastern Equatoria State. In accordance with ethical guidelines, specific villages included in this study will not be disclosed, but are located in the general area shown in Figure 1, below, along the Juba-Bor, Juba-Torit, and Torit-Kapoeta roads. The study area is referred to as the ‘East Bank’.<sup>1</sup>

The East Bank is located in the ‘hills’ environmental zone (Figure 2). Local populations in this area are characterized by their reliance on subsistence agriculture (Muchomba & Sharpe, 2006; WFP/FAO, 2007; USAID, 2010), primarily comprised of millet, sorghum, groundnuts, and seasonal vegetables (Grub, 1992; Lomodong, 1995). Yet, community members are not reliant on agriculture as a sole means to secure their livelihoods. Many

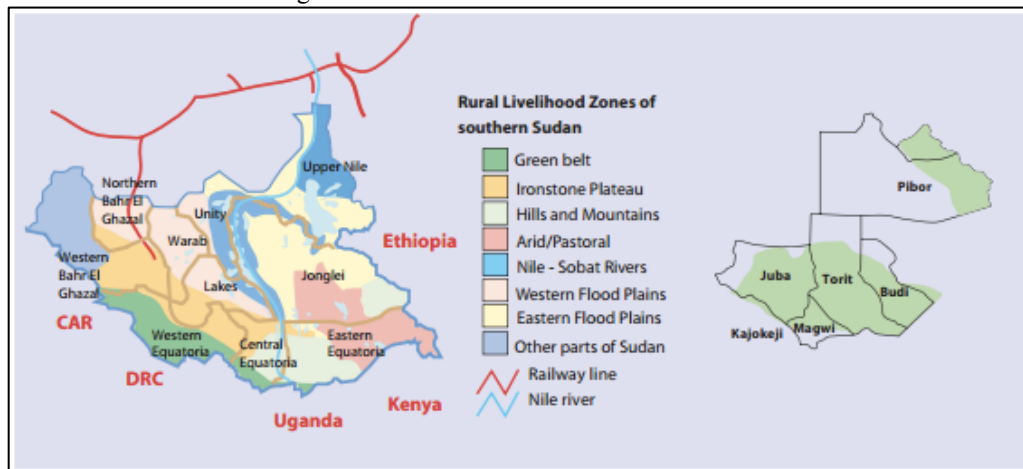
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<sup>1</sup> The study area begins on the East Bank of the Nile and extends to the Lopit mountains region.

households rely to some extent on the availability of wages that may come in the form of paid labour (usually cultivating others plots), livestock (goats, to a lesser extent cattle), brewing alcohol, selling crops, among others (Figure 3). Regardless, the availability of land is an important factor for securing a stable livelihood with many households having several plots that will be cultivated in rotation (Grub, 1992) – suggesting a dependence on abundance to maintain stable crop production.

Figure 1: *East Bank Equatoria*

Source: Grub (1992)

Figure 2: *Hills and Mountain Livelihood Zone*

Source: Muchomba & Sharpe, 2006.

According to the last census in 2008<sup>2</sup> and UN projections, Eastern Equatoria has been experiencing population growth since peacetime due largely in part to the influx of returnees (WFP, 2010). Eastern Equatoria remains quite rural, having the highest proportion of rural residents in the country (91 percent) (WFP, 2010).

### *iii. Qualitative Methods*

This research study employed three qualitative research methods: semi-structured individual interviews, semi-structured group interviews, and structured interviews.

#### *(a) Semi-Structured Individual Interviews*

The semi-structured interviews conducted for this research were not strictly formal or informal, but exist on a continuum between the two and vary depending upon the context (O'Reilly, 2005). For example, interviews with state government officials and Members of Parliament were quite formal whereas community interviews and interviews with NGO staff were relatively informal. Rather than the degree of formality, the primary concern of the interview process is to make the respondent comfortable and, as a result, interview data was recorded through interview notes and post-interview notes and reflections. This is particularly important in post-conflict environments that offer particular challenges to gaining respondent trust and access (Bowd & Ozerdam, 2010). Additionally, communities tend to experience a great deal of social vulnerability as a result of social ties being broken during conflict (Bowd & Ozerdam, 2010). Efforts were made to offer semi-structured interviews in relative privacy in order to gain the trust of the interviewees and allow them to provide honest responses to more controversial issues without fear of being heard.

Key informant interviews were conducted in Juba and Torit with relevant national and state government officials, as well as non-government organization (NGO) and civil society organization (CSO) staff. These interviews primarily discussed the nature of the participants work and varied depending on the respondent's area of specialization. In

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<sup>2</sup> The Government of Southern Sudan rejected the results of this census in 2009 as it did not believe it was an accurate representation of population distribution and should therefore not be used as a tool for deciding wealth and power sharing with Khartoum (Sudan Tribune, 2009).



some instances, particularly with national political representatives, participants were provided with an overview of my research and selected questions in advance when requested.

Following preliminary interviews in Juba, one to three local officials in each community, depending on the size of the community, were interviewed. Semi-structured interviews focused on community leadership as well as a handful of randomly selected households. These interviews focused on: resettlement and land access, livelihoods; community strengths and challenges; land conflict; perception of government; knowledge of/perception of external land acquisition; and, experienced and ideal procedures for land acquisition.

#### *(b) Semi-Structured Group Interviews*

Based on the experience of McEvoy and Murray (2008) as they performed household surveys in Eastern Equatoria, group interviews rather than individual interviews were found to be the most socially acceptable way to gather local opinion from community members as a function of both the layout of the communities and the general suspicion of outsiders. In addition to the acceptability and practicality of group interviews in the field context (Chambers, 2008), group interviews have several advantages. These include access to a larger body of knowledge and mutual checking. Two to three group interviews were conducted in each community with community members rather than community leadership (*e.g.*, chief, payam administrator, and landlord). They covered issues pertaining to: determinants to access to land, perceptions of land tenure, livelihood security, and local land acquisition processes.

#### *(c) Structured Interviews*

Structured interviews were added as a research method in the field. After conducting household surveys in the pilot community, it was clear that a major gap in the data was qualitative data that would directly compliment and contextualize numerical data being collected. The structured interviews also addressed the gaps in regards to local understanding of terms used in the household survey (*e.g.*, environment, development,

and consultation). They were composed of several questions taken directly from the household survey that addressed a particular facet of my research questions. The questions initially prompted a ‘yes or no’ response similar to the surveys, but then respondents were prompted to explain their answer. Structured interviews included questions related to: demographic/livelihood data, perception of land access and management, perception of government-community interaction, and perception of local development. Structured interviews were employed in the seven subsequent field sites. This data was also useful in that it retrieved the same type of data – that is – it provided the same structure for every respondent in a way that semi-structured interviews do not, allowing responses to be cross-compared (Bernard, 2009a).

#### *iv. Quantitative Methods*

##### *(a) Household Survey*

Household surveys were used in the seven field sites as a way to establish baseline data about selected communities and to establish local perceptions on a variety of topics relating to land access, land management, livelihood security, local governance, and oil development. Survey skip-logic was applied to questions relating to the oil industry as it was assumed many community members might be unaware of the oil industry.

Household surveys were conducted using open-source Android surveying software, KoBo Collect.<sup>3</sup> KoBo Collect collects and stores household data on Android mobile phones rather than the traditional paper questionnaires. Surveys were first designed on a computer and then uploaded to several mobile phones for data collection. KoBo Collect is a useful tool for conducting surveys in the post-conflict research context because: data is uploaded to a computer and deleted from the mobile phones everyday ensuring safe storage and fewer items to transport in a heavily secured and monitored area will make travel less cumbersome and time-consuming. In total, 99 surveys were collected.

#### *v. Sampling*

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<sup>3</sup> More information on KoBo Collect and other Kobo Tools: [www.kobotoolbox.org](http://www.kobotoolbox.org)

Semi-structured key informant interviews conducted in Juba and Torit with relevant national and state government officials and non-government organization (NGO)/civil society organization (CSO) staff were conducted using purposive sampling. Purposive sampling was necessary as individuals who were involved in land, livelihood, and petroleum issues in South Sudan were of particular interest to this research. Occasionally, these interviews led other informants to be identified through referrals from interviewees. Semi-structured interviews with community leadership (*i.e.*, chief, landlord, and payam administrator) were also sampled purposively. Individual and group semi-structured interviews with community members were sought randomly and informally.

In general, it is difficult to have a precise understanding of a population in a post-war context due to migration, ongoing IDP settlement, and lack of data. In this context, it is unrealistic to attempt to create a source list for sampling. A systematic walking random sample was used for household surveys (*e.g.*, every fifth household will be surveyed) in attempt to randomize participant households to the greatest extent possible (Kothari, 2004). However, there are clear limitations to this sampling method. For example, ‘convenient replacements’ (Bernard, 2009a) were sometimes used when the residents of the sampled household were not home due to the limited timeframe for the research, thus skewing the method. Furthermore, since households are not constructed in straight rows or in any grid formation, it is sometimes difficult to ascertain which household is ‘next’ – this is compounded by several enumerators all employing this technique at the same time throughout the village. Therefore sampling is non-probability and results cannot be considered statistically representative (Babbie, 2008). However, with the assumption that some rural field sites are more homogeneous than populations in the urban periphery, a smaller and less randomly sampled portion may still be somewhat representative of the whole in some rural communities.

#### *vi. Analysis*

As my research is using a parallel mixed method approach for data collection (Tashakkori & Teddlie, 1998), data analysis will take both qualitative and quantitative approached. Mixed method data analysis, defined as the “use of both qualitative and

quantitative analytical techniques, either concurrently or sequentially...from which interpretations are made in either a parallel, an integrated, or an iterative manner” (Onwuegbuzie & Teddlie, 2002: 352-353). The mixed method approach provided a buffer for the strengths and weaknesses of each approach: whereas quantitative research analysis tends to be preoccupied with results rather than interpretations, qualitative analysis is focused on providing narrative and broader context to research questions and findings (Onwuegbuzie & Teddlie, 2002).

Qualitative data was analyzed using manifest content analysis as well as latent content analysis. Manifest content analysis will focus on visible data (e.g., what are the trends in oil development) whereas latent data analysis involved coding interview notes and field journals (Dunn, 2000) into broader themes as they emerge (Creswell, 2009; Cope, 2010). While structured interviews are usually considered a qualitative exercise, this study employed structured interviews to compliment data gathered in surveys (*i.e.*, the same questions were used in both methods) (Bernard, 2009b). As the structured interviews first prompted similar responses as the survey (yes/no/unsure/no answer), these responses could be quantified and used alongside household survey results. Qualitative responses prompted by follow-up questions in the structured interview (*i.e.*, why did you answer yes or no) were coded into themes to add context to the numerical findings.

Quantitative household survey data was used for two main purposes. First, simple numerical analysis was used to understand trends in the community which had not been established by pre-existing census, studies, or grey-literature. For example, displacement and return trends, voluntary and forced migration, ethnic identity, and land access. Second, perception data regarding specific community concerns was used to identify trends that could be later be explored through semi-structured and structured interview results. As the sample is non-probability as it is difficult to establish a true sample in the context of South Sudan, data enumerated through this process was analysed with the understanding that a statistical use of the results would not be accurate.

Overall, the interpretation of the results for this study is largely qualitative. Manuscripts included in this thesis rely heavily on information collected through the individual and group semi-structured interviews as well as the semi-structured interviews and both were used to contextualize numeric perception data gathered in the household survey. It is also important to mention that the information included in this research was collected data at one point in time from a population at a single point in time and, as a cross-sectional study, can only be interpreted to represent the population at a single point in time (Babbie, 1973).

### *vii. Limitations and Challenges*

This research faced a number of challenges and therefore has several limitations. Research was conducted in English, Lotuho, Lokoya, and Bari. Though key terminology such as ‘livelihood’ was discussed with the purposes of establishing an agreed upon translation, language error is always a possible limitation to this research. In addition to language challenges, surveys and interviews rely on self-reported data are cross-sectional, meaning the data can only represent these communities at a single point in time (Babbie, 1973), a particular weakness for post-war research when populations are constantly shifting. Another limitation directly linked to post-war research is physical access (Bowd & Ozerdem, 2010). Many areas in Eastern Equatoria State still suffer from high degrees of insecurity. As a result of reports of attacks on vehicles, communities initially selected for this study were altered by security concerns. For example, communities in Budi County were deemed inaccessible at the time of study. Furthermore, environmental challenges such as the rainy season beginning in June<sup>4</sup> and poor road conditions limited access to some communities. The presence of the vast array of NGOs operating in South Sudan serves as the final limitation of this research. In South Sudan many education, health, and nutritional services have been provided by various NGOs (Riehl, 2001; Branch & Mamphilly, 2005). While the communities where I conducted research had varying levels of recent NGO exposure, the fact that 68 percent of survey respondents felt that NGOs had done the most to make improvements to their community (over local, county, state, and national governments as well as the SPLA) suggests that the impact has

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<sup>4</sup> This region experiences two rainy seasons, one from March to May, the other from late June until early August.

not gone unnoticed. Being a visible outsider myself and arriving in a marked vehicle did raise suspicion in some communities about my affiliation with some of these organizations (though explicitly denied). In this sense, some challenges – specifically self-perception of wealth – could have been exaggerated due to the perception that problems expressed could be rapidly addressed (Jones, 2010; Paul & Dutt, 2010). Furthermore, post-war research is often filled with sensitive and often emotionally difficult issues and, as a result, I note that my own empathy or sympathy towards some respondents may have impacted my data and interpretation of the data (Chaitin, 2003; Bowd & Ozerdem, 2010). Therefore, my positionality as an ‘outsider’ (in many sense of the word) has undoubtedly influenced the data.

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