

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**ANALYSIS OF THE ROLE OF CIVIL SOCIETY IN PEACE BUILDING OF POST
CONFLICT SOUTH SUDAN AFTER SIGNING OF COMPREHENSIVE PEACE
AGREEMENT: 2005-2012**

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OF MASTER OF ARTS IN DIPLOMACY**

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DECLARATION

I, Peter **Lasu Ladu** declare that this dissertation is my original work and has not been submitted for the award of a degree in any other university.

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This project has been submitted for examination with my approval as the appointed university

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Date

DEDICATION

This work is dedicated to my family members. Were it not for their continued support, understanding and constant encouragement, this study would not have been successful.

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It has been an exciting and instructive study period in the University and I feel privileged to have had the opportunity to carry out this study as a demonstration of knowledge gained during the study period. With these acknowledgments, it would be impossible not to remember those who in one-way or another, directly or indirectly, have played a role in the realization of this research project. I would like thank them all equally.

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ABSTRACT

This study is an assessment of the role of civil society groups in peace building in South Sudan after the signing of Comprehensive Peace Agreement (CPA). It seeks to analyze how local, national and international dynamics surrounding independence in July 2011 and the end of formal Comprehensive Peace Agreement (CPA) process with Sudan have impacted on peace and conflict in 2011–2012, and how they are likely to influence peace and development in future. It also analyses some of the challenges and impact of peace building actors and institutions such as the civil societies and their strategies over the CPA period.

The study established that the civil society in South Sudan has an increasing capacity developed through wartime and Diaspora experience, steady development in the CPA period and engagement with a growing range of donors. In particular, it is highly concentrated among the young, the educated and Equatorians. This said, it remains very weak relative to the government and is the subject of some distrust from the state. It was also noted in the study that service delivery was only effective for peace building when it creates entry points for other functions. During war and armed conflict, aid projects often take place in conflict-affected areas. The systematic use of such projects for additional protection purposes can enhance their peace building effectiveness. After large-scale violence ends or during periods of low levels of violence, aid projects can be very effective in creating common platforms of cooperation and dialogue for adversarial groups.

The research findings indicate that the civil society played an important and effective role in peace building in South Sudan during all stages of conflict, and has contributed positively to the peace building process. However, a careful look at the engagement of civil society – compared to the involvement of other actors – reveals that the role played by civil society is not necessarily decisive in building peace, but rather supportive in most instances. The central impetus for peace building comes mainly from political actors, and above all, from the conflicting parties. These actors are often reinforced by strong regional actors. Nevertheless, the supportive role played by civil society can make a difference when performed in an effective way at the optimal time. Civil society groups in South Sudan have contributed effectively to the reduction of violence, the negotiation of settlements, and the facilitation of peace after signing of the CPA.

Service delivery as such is seen as an economic task of the state, the market or the third sector. However, service delivery is connected to the civil society, as many of its actors have taken up service delivery parallel or alternatively to the state or the market. Service delivery, however, may be seen as a civil society function when it is directly linked to other civil society functions or objectives. Without this connection to other civil society functions service delivery has mainly economic or social objectives. Service delivery can only be important for civil society peace building where donors explicitly aim to contribute to local peace capacities and try to find entry points for peace building through service provision.

CHAPTER ONE

1.0: Introduction

The study about peace and peace-building is a fascinating research area. It is extremely important to investigate the process itself within devastated societies that lack the necessary common vision for a better future such as the current South Sudan, not just politically, but socially as well. Civil society as a democratic precondition and tool seems to be heavily involved in repairing societies and rebuilding social capital. Studied by scholars and invoked by politicians, the concept of a civil society is a central issue both in university publications and in the recommendations made by international organizations on the democratization and post-conflict transition processes.

Moreover, in terms of peace building, particularly amongst scholars recognizing their stance as falling under the umbrella of the “third generation approach, there has been a significant change to emphasis in recent years: if at one time, societies were mainly concerned by the mechanisms through which to develop peace agreements on a national level, or the interventions of international agencies, today nations instead would find themselves discussing ways by which the civil society may contribute towards reconciliation, optimizing local sovereignty with regards to the political-military elite.¹

¹Van der Lijn, J. (2006), *Walking the Tightrope: Do UN Peacekeeping Operations Actually Contribute to Durable Peace?*, Dutch University Press and Purdue Press, Amsterdam, .

Often, people ask themselves under what conditions may they be able to strengthen the civil society of a country at war, as part of a more extensive peace building strategy, as a contribution to peace that is sustainable in the long-term and as a condition for the function, not merely on a formal basis, of new or renewed democratic political systems.² Above all for countries with imperfect institutional mechanisms, it is in fact considered that civil society is a tool by which to encourage self-determination and expression of the local citizens, allowing for a more extensive participation in the political and economic decision-making processes.³

1.1: Background of the Study

Wars leave societies destroyed and post-conflict recovery requires a lot of financial resources. Currently, at the beginning of the twenty-first century, nearly 60 countries are in conflict or have recently come out of conflict; for the most part, these countries are the poorest on the planet.⁴ Helping these states in their reconstruction processes is one of the most complex challenges that the international community faces. The majority of these conflicts and the eventual reconstruction processes take place in fragile states, which do not have the necessary resources and require external financial assistance in order to get through this phase.

States fail when they cannot provide political goods to their society and lose legitimacy in the face of their citizens. Approximately half of the states of the world are in a “weakening” process, i.e. they are becoming fragile. Some, like Somalia, have reached collapse.

²Johnson, D.H. (2006), *The Root Cause of Sudan's Civil Wars, Updated to the Peace Agreement*, updated 3rd impression, The International African Institute, Oxford, .

³Programmes Aimed at Building ‘New’ Societies.” *Security Dialogue*, Vol. 36/no.4, 495-510, Sage Publications, London.

⁴SIDA. (2005). SIDA’s Policy for Civil Society: The Objective of SIDA’s Cooperation with Civil Society, www.sida.se .

The governments of most of these states confront armed revolts, with long-term violence (like in Angola, Burundi and Sudan), directed towards the government and justified by demands for political or geographical autonomy, discrepancies between different communities for ethnic, religious or other reasons, and/or the attempt to control the scarce resources available. These states do not control their borders or their territory, their elite classes are corrupt and establish client networks that absorb or exclude their citizens so that they allow themselves to be co-opted by the regime, and they are not capable of offering them security or guaranteeing them the application of the law. Citizens, then, transfer their loyalties to other sub-state actors (religious leaders, clan chiefs, mafia bosses, warlords) in search of security.

Supporting the strengthening of these states to prevent their fall is a lot easier than reconstructing them once they have collapsed, as is evidenced by Afghanistan: the reconstruction is long, expensive and difficult⁵ and in the current international context, the commitment of central states with these situations is oscillating and, in the majority of the cases, is non-existent. The civil wars, characteristic of the current international context, are more harmful than international wars because they take place within the territory of a single state and contribute to weaken its institutions. The social capital can remain irreparably damaged because societies, neighbors and even families are often divided by war. In contrast, international wars can strengthen the state, provide social cohesion and mobilize certain economic sectors despite the loss of human lives and material destruction. Therefore, reconstruction is more difficult in the case of civil wars. During the 1990s, the international donor community pledged more than one hundred billion dollars in aid to three dozen countries recovering from violent conflict.

⁵Richmond, O., and H. Carey. (2006). *Subcontracting Peace. NGOs and Peace building in a Dangerous World*. Aldershot: Ashgate

From Cambodia to Bosnia, El Salvador to Rwanda, and Tajikistan to Lebanon, multilateral and bilateral donors have supported conflict resolution and peace-building with generous grants, loans and technical assistance. The extent of work and the international community's involvement varies from country to country, but in situations where an armed conflict has come to an end, the rehabilitation and reconstruction activities fall within a larger and more complex peace-building framework. Rehabilitation incorporates all of these processes, approaches, activities, instruments and resources that are necessary to turn the conflicts and their risks of erupting into violence, into situations of stable, just and lasting peace. It is presented in three phases: Short-term: crisis management and the establishment of agreements among the parties; Medium-term: post-conflict rehabilitation; and Long-term: transformation of the context, attitudes, behavior and incompatibilities, which led to the outbreak of violence.

Sustainable Peace building implies a complete re-constitution of the state and the society, which includes socio-economic reforms to overcome the “profound causes” of the war and broad political and institutional reforms meant to democratize the country and establish a new political system and representative governing institutions that are legitimate and effective and capable of channeling the social tensions and allowing for a peaceful resolution, thereby making it possible for a stable and lasting peace. Additionally, there is the challenge of national reconciliation, which seeks to overcome the divisions and the hatreds of the war and create a new climate of confidence and a culture of peace.⁶

⁶International Crisis Group (ICG) (2008), *Sudan's Comprehensive Peace Agreement: Beyond the Crisis*, ICG, Nairobi and Brussels.

The concept of sustainable peace building is not limited to physical infrastructure or the re-launching of the economy, as it addresses national reconciliation and the establishment of a new institutional and political framework to resolve conflicts peacefully and to definitively break the cycle of violence. Sustainable Peace building process should be designed while taking into consideration the links between different types of aid (emergency post-conflict rehabilitation – development). It is necessary to link together emergency situations with development and both must be linked with post-war rehabilitation.⁷ The ultimate objective is the transformation of the context, as well as the attitudes, behavior and incompatibilities of the groups, so that they are turned into an engine for peace. Rehabilitation is considered a phase that immediately follows the emergency, in which short-term and medium-term actions are taken to reestablish services and basic infrastructures.

Peace-building forms part of a development strategy in the medium and long-term actions. Therefore, some basic principles are presented: physical reconstruction in the short-term should not go against the medium-term objectives of reconciliation and resolution of the underlying incompatibilities. Throughout the entire process the local population should be empowered with the long-term aim of it being autonomous in the handling of its own peace-building process.

⁷Barakat, S., Ehsan, Strand, A. (1994), "NGOs and peace-building in Afghanistan", PRDU, University of York, workshop report, No.3-7 April.

1.2: Problem Statement

A vibrant civil society is very important in any nation. In analyzing the role of civil society in peace building after South Sudan's signing of the Comprehensive Peace Agreement (**CPA**), it is tempting to assume that this created an entirely new context. This is only partially true. In reality, CPA has changed South Sudan's international position and aspects of its economic relationship with Sudan. It has also affected the expectations of South Sudanese regarding their economic and political position, but only to a very limited extent. Many other aspects of the internal context and dynamics of the country, including the imbalance of political forces, regions, people and genders, remain little changed by independence of the CPA.

Interestingly, the increase in peace building initiatives involving civil society in the last decade is not matched by deep research and debate on the nexus between civil society and peace building. Only a few publications explicitly deal with the subject in the context of South Sudan, either taking an actor-oriented approach that aims to understand who is doing what, or else they analyze roles and functions of civil society actors (mostly NGOs) in peace building in general.⁸ Another debate looks into the effectiveness of NGO peace work in general (Anderson and Olson 2003) or evaluates the impact of specific civil society initiatives on a particular macro peace process.⁹

⁸Kazemi, F. (1995), "Institutions of civil society in pre-modern Iran", in Hamzawi, A. (Eds), *Civil Society in Middle East*, Verlag Hans Schiler, Berlin, (Norton).

⁹De Waal, A. (2009a), "Mission without end? Peacekeeping in the African political marketplace", *International Affairs*, Vol. 85 No.1, pp.99-113.

The majority of this research is critical of NGO peace building initiatives, especially due to crowding out local efforts and actors, and their lack of impact. Existing studies, however, address different research questions making it difficult to compare their results and draw detailed conclusions on the role of civil society in peace building, or to determine what kind of peace building civil society can contribute to. With the proliferation of conflicts in the 1990s and the increasing complexity of the peace building efforts confronting the international community donors and the peace building discourse increasingly focused on the potential role of civil society. This led to a massive rise in civil society peace building initiatives but it was not matched by a corresponding research agenda and debate on the effect of civil society and peace building. There has been little systematic analysis of the specific role of civil society in the context of armed conflict and even less regarding its potentials, limitations and critical factors in South Sudan.

The study therefore focuses on three key functions of civil society: i) Advocacy ii) Service Delivery and iii) Peace building. The aim is to determine whether these functions can also be useful to analyze civil society contributions to peace building more systematically and thus enhance the effectiveness and impact of civil society peace building. This study assesses the role of civil society groups in peace building in South Sudan after the signing of the Comprehensive Peace Agreement (CPA). It seeks to analyze how local, national and international dynamics around independence in July 2011 and the end of formal Comprehensive Peace Agreement (CPA) process with Sudan have impacted on peace and conflict in 2011–2012, and how they are likely to influence peace and development in future.

1.3: General Objectives

The overall objective of the study is to examine the role of civil society in peace building in South Sudan after signing of CPA 2005-2012.

1.3.1 Specific Objectives

- i. To assess the role of civil society on service delivery to enhance peace in South Sudan after signing of the CPA.
- ii. To assess the various roles of civil society in respect to rights advocacy and lobbying in South Sudan after signing of the CPA.
- iii. To assess the role of civil society in protection of citizens and in peace building in South Sudan after signing of the CPA.
- iv. To determine the effectiveness of civil society in implementing its rights promotion and peace building mandates

1.4 Justification of the Study

The study provides a good understanding of the civil society's roles and potential for peace building. It is also important to recognize that certain roles and functions of the civil society vary depending on the phases of conflict and may not all be equally relevant and effective in all conflict phases. The study also suggests the need to analyze the enabling conditions for civil society to fulfill a constructive role in peace building and approach this from a holistic understanding of the needs of the civil society. Not only is it necessary to identify the relevant functions of civil society within peace building, but also the composition of civil society. This would avoid the common misconception that conflates support to civil society with support to NGOs.

Moreover, there is a need for a better understanding of the conditions and obstacles that affect civil society's ability to play a constructive role in peace building, including the behavior of potential or existing 'uncivil' society actors and the role of fragile or authoritarian states. Apart from contributing to the existing body of knowledge on civil society and peace building, the study is useful to policy makers in South Sudan, academicians, civil society groups and other parties interested in peace building.

1.5 Theoretical Framework

'Peace' is not just the absence of war. Modern concepts of peace are broader and include creating situations that guarantee positive human conditions. Positive peace ultimately needs to be obtained by changing the very societal structures that are responsible for the suffering and conflict.¹⁰ This is very different from the traditional definition of peace, in which the absence of direct, overt violence (such as war) is sufficient. Derivatives of security theory have led to a growing understanding of 'new security' definitions where non-military issues are given similar weight to their military counterparts.¹¹ Security and protection are key components of building a lasting peace; the new security concept provides depth to emerging peace theories.

The sheer complexity of state security stabilization and rebuilding requires a high level of coherence. In practice, peace building entails synergy of social and economic development through multiple organizations. Its aim is to transform conflict in a constructive way to create an environment conducive to sustainable peace.¹² The study will help provide insights on the role of civil society in peace building of post conflict South Sudan after the signing of the

¹⁰ Jeong, Ho-Won, (2000), *Peace and Conflict Studies*, Ashgate, Aldershot

¹¹ Henderson, John, (1999), *Bougainville: A Note and some Lessons Learned from New Zealand's Role in the Peace Process*, Center for Strategic Studies, Wellington

¹² Reyhler, Luc, (2001a), Conceptual Framework, in *Peace building: A Field Guide*, edited by Luc Reyhler and Thankia Paffenholz, Lynne Rienner, London

comprehensive peace agreement, 2005-2012. The role of civil society is vital in peace building because peace building is not just about solving a single situation or managing a conflict, but rather it is concerned with changing the way parties interact and ultimately solving the deeper problems at the core of the conflict.

1.5.1 The Peace building theory

Reychler (2001) has suggested that use of state power is vital in determining the potential for peace building success, as the democratization process is inherently peace building through confidence building measures.¹³ By introducing the concept of the Peace building Theory to the discussion on peace building, Reychler directly links theory with peace building, as a means of attributing long-term stability to a democratic transition process. On a similar note, Abdallah (2001) recognizes the need for a democratic transition period and the essential need to devise specific solutions to deep-rooted problems such as ‘political intolerance, freedom of press, funding of political campaigns and power sharing’.¹⁴ The implication that structural changes impact heavily on post-conflict societies has created several additional studies, becoming a core component of post-conflict reconstruction theories.

Many of the existing peace building theories suggest states should maintain certain political regimes or economic systems, but make these suggestions under the assumption that the state can function at all.¹⁵ Despite this modern assumption, classic liberal thinkers such as John Locke ascribed a human need for common government, so that there was some starting point for driving

¹³ Reychler, Luc, (2001a), Conceptual Framework, in *Peace building: A Field Guide*, edited by Luc Reychler and Thankia Paffenholz, Lynne Rienner, London

¹⁴ Abdallah, Ould Ahmedou, (2001), Stakeholders and Owners, *Peace-Building: A Field Guide*, (eds) Luc Reychler and Thania Paffenholz, Lynne Rienner, Boulder

¹⁵ Paris, Roland, (2004), *At War's End*, Cambridge University Press, New York

prosperity amongst a community.¹⁶ Authors like Roland Paris have expressed the need for research to take this into account, and rather than simply regarding one government archetype as superior to another, research should analyze the needs of a community before determining a superior structure. Furthermore, Paris (2004) posits that the widespread opinion that democracy and capitalism are the best means of rebuilding a state is fundamentally flawed, in that both systems thrive on competition and a post conflict environment where reconciliation and economic growth are recent developments is hardly ideal.¹⁷ The entire process of democratization itself can be fundamentally flawed if executed incorrectly and even those conducted in ‘free and fair’ manners can create further conflict while only providing the appearance of peace building success (ibid: 164, 218). An uncomfortable fact, this underlines the value of new literature and perspectives on the central assumptions of post-conflict reconstruction.

The Comprehensive Peace Agreement was signed in January 2005 between the Sudan People’s Liberation Movement (SPLM) and the Government of Sudan. The CPA ended the Second Sudanese War and established a secular, semi-autonomous Southern Sudan within its own executive, legislative and judicial institutions. It provided for a six-year interim period (until January 2011) by the end of which Southern Sudan would have a referendum on its independence. The CPA made provisions for Khartoum and Juba to agree a number of important matters before the referendum took place. But several issues—including border demarcation, the status of the oil-rich border region of Abyei, oil revenue sharing and debt sharing—were not resolved before the January 2011 referendum. It was decided to proceed with the referendum,

¹⁶ Paris, Roland, (2004), *At War’s End*, Cambridge University Press, New York

¹⁷ Paris, Roland, (2004), *At War’s End*, Cambridge University Press, New York

and later with independence, with these matters unresolved rather than delay and risk renewed conflict.

During the post-CPA period from 2005 to 2011 oil revenues from production in Southern Sudan were split equally with Khartoum. Following independence, South Sudan acquired about 75% of the former Sudan's oil output although it continued to rely on pipelines running north through Sudan to a Red Sea port (Port Sudan) to export oil. A final settlement on oil revenues has been one of the key sticking points in negotiations between the two countries. There was agreement that South Sudan would pay Sudan a fee for use of the pipelines (rather than a share of revenues) but, as we heard in both Khartoum and Juba, the two parties have very different views of what the fee rate should be.

Sudan and South Sudan have had a tense relationship since secession, with the oil dispute, frequent border clashes, and both sides accusing the others of supporting rebel groups in each other's territory. In the West, Sudan is often presented as the aggressor in these disputes. It was clear from our visit to Khartoum, however, that many Sudanese resent the negative portrayal of their country, especially as they co-operated with the secession of South Sudan and agreed to relinquish most of their oil fields. There is a common perception that Sudan has demanded \$36 per barrel as a transit fee but the Sudanese claim that this figure also includes provision for transitional compensatory payments which it was agreed they would receive to help them adjust to the loss of oil revenue when South Sudan became independent.

In seeking to study this subject, this research adopts the conflict sensitive approach. A peace-building conceptual framework was used to find the understanding of the interaction between intervention and the context and act upon the understanding of this interaction, in order to avoid

negative impacts and maximize positive impacts using peace-building tools such as communication. Conflict analysis is the central component of conflict-sensitive practice. It provides the foundation to inform conflict sensitive programming, in particular in terms of an understanding of the interaction between the intervention and the context.

The complex conflict situation in the South Sudan calls for knowledge based policy making on pertinent issues of peace and security. Specifically the post conflict situation in the country calls for profound research and analysis of the current conflict dynamics. Given the fragility of the new nation and the immense challenges of providing security and basic services to the entire country and initiating development amidst scarce resources; South Sudan requires reliable knowledge of conflict prevention, management and resolution.

The aftermath of the Comprehensive Peace Agreement process is most notably in the oil-revenue sharing, border demarcation and the status of the disputed border region of Abyei threatens the prospects for peace and development within South Sudan's short lifetime as an independent nation. We are deeply concerned at the prospect of a humanitarian crisis given the loss of South Sudan's oil revenue, combined with the increasing number of returnees and refugees arriving in the country and ongoing inter-tribal violence.

1.6: Literature Review

1.6.1: Civil Society and Peace Building

One of the most devastating legacies of violent conflict is the polarization of social relationships. The insecurity condition contributes to the creation of a lasting social mistrust. Extending communication bridges again between the social groups and promoting participation in political life are essential requirements for social reconciliation. The support of the civil society must

contribute to conciliate the interests of the different groups over the long-term. It is necessary to determine who the actors of the civil society are that can drive the mechanism that is a factor to consolidating peace and reconciliation within the communities and avoid involuntarily backing the forces that instigated the war.

Civil society is a concept with different meanings and approaches. In the institutional fragile states of the international system, civil society is the collection of diverse groups and social organizations that is strong enough to provide autonomy and protection to individuals from the authoritarian and hegemonic tendencies of states. But on the one hand civil society is regarded as antithetic to the state, on the other it is the state that protects and makes the civil society possible.¹⁸ A modern and comprehensive interpretation of civil society gathers the concepts and sectors of the rule of law, organized forms of social and family life, social movements and civic activists, charities, voluntary associations, third sector and identity groups. At the end of the day, civil society is an arena of social actors that have an open dialogue as part of social relations, in which they manage the public affairs using reason and Law instead of violence.¹⁹ According to Mary B. Anderson²⁰, in all civil wars there are elements that connect the people with the fight. This means that in all societies, capacities for peace exist. In order to work for peace it is important, therefore, to identify the elements that provoke tension and those that offer opportunities for peace.

¹⁸Cardoso, H.F. (2003). "*Civil Society and Global Governance*." Contextual Paper for High Level Panel on UN-Civil Society, New York.

¹⁹Ylonen, A. (2005), "Grievances and the roots of insurgencies: Southern Sudan and Darfur", *Peace, Conflict and Development: An Interdisciplinary Journal*, Vol. 7 pp.99-134.

²⁰Mary, B., Anderson (2005). *People Building Peace II. Successful Stories of Civil Society*. Boulder, CO: Lynne Rienner.

Among the elements that divide are the armies or gangs, the production and distribution of arms, the war propaganda apparatuses, and the institutions or systems that have traditionally separated the groups of people, thereby causing tension between them (walls, systems of apartheid, unequal rights, etc.). Peace-building and reconciliation must focus on promoting social networks and organization that can act as elements of stability in the society. It is important to provide support for local community organization to help them increase their capacities and be receptive to the needs of their social environment.

Local NGOs, women's associations, multi-ethnic groups, can help excluded groups to get better access to the judicial, administrative, and communications systems. Certain actors of the civil society (networks of human rights and peace groups, the independent media, community leaders, unions) can play an important role in building bridges between polarized groups, promoting dialogue and reconciliation.²¹ The local traditional authorities, at the same time, are institutions that have evolved over time to help manage the tensions in the community. The informal mechanisms for the resolution of disputes have an enormous influence on the political leaders. Support of traditional initiatives for peace-building, like advice from elders or religious leaders, is important in peace-building and reconciliation processes. It is a question of fomenting a relationship of trust with local partners.

²¹Tongerren, van P., M. Brenk, M. Hellema, and J. Verhoeven. (2005). *PeopleBuilding Peace II. Successful Stories of Civil Society*. Boulder, CO: Lynne Rienner.

With relation to the NGO's, many of the NGO's of the states that experience a post-conflict situation were born out of an emergency context and face huge problems. Amongst them we could mention: lack of means to act and utter dependence on external financial resources; lack of qualified human resources; vulnerability to governmental pressures; deficient level of articulation between themselves and with international networks.²² All of these factors make it hard to create a civil society's "agenda" for their country's future. But the NGOs play a crucial role in raising public awareness and prompting action for the promotion of certain values, ideas and actions. In general, NGO's and social movements need to explain the themes they work on and the activities they pursue to the society, public authorities and other social sectors. The information they produce is instrumental and has a purpose: to improve the quality of people's lives. In a transition context, it is urgent to develop NGOs and the civil society's capacity to elaborate and disseminate their messages and priorities, as well as the media's capacity to convey different perspectives from the dominant discourse, alongside the priorities of the different groups in society.

1.6.2: Service Delivery

Service delivery is not a civil society function within the democracy civil society discourse. Service delivery as such is seen as an economic task of the state, the market or the third sector. However, service delivery is connected to civil society, as many of its actors have taken up service delivery parallel or alternatively to the state or the market. Service delivery, however, may be seen as a civil society function when it is directly linked to other civil society functions

²²Isham, J., Kaufmann, D., Pritchett, L.H. (1997), "Civil liberties, democracy, and the performance of government projects", *The World Bank Economic Review*, Vol. 11 No.2, pp.219-42.

or objectives. Without this connection to other civil society functions service delivery has mainly economic or social objectives. During armed conflict the provision of aid through civil society actors (mainly NGOs but sometimes also associations) increases tremendously as state structures are either destroyed or weakened.

There is no doubt that this kind of service is extremely important to support war-affected populations. Often the same actors provide services and peace building functions at the same time. Nevertheless, the question remains whether and under what circumstances it is also a civil society function in peace building. Some authors see service delivery as a separate function of civil society because it saves lives and thus creates the preconditions for civil society to exist.²³ Others, however, follow the same argument as in the democracy discourse and point out that since service delivery has an economic, social or humanitarian objective; it should not be labeled as civil society support. Service delivery can only be important for civil society peace building where donors explicitly aim to contribute to local peace capacities and try to find entry points for peace building through service provision.²⁴ However this is not seen as a function on its own, but only as an entry point for other functions. For example, a development project can incorporate the conflicting local stakeholders and try to involve them through project user committees as a means to facilitate dialogue between adversary groups.

²³ Abiew, F. K., and T. Keating. 2004. "Defining a Role for Civil Society." In T. Keating, and W. A. Knight, *Building Sustainable Peace*, 93-117. Edmonton: University of Alberta Press.

²⁴ Isham, J., Kaufmann, D., Pritchett, L.H. (1997), "Civil liberties, democracy, and the performance of government projects", *The World Bank Economic Review*, Vol. 11 No.2, pp.219-42.

This can be done both at the local as well as on the sector level. In Sri Lanka, an emergency education project that had started in the immediate aftermath of the ceasefire agreement in the most conflict-affected areas in the North of the island formed a district project management committee comprising the two conflict parties that had not been in dialogue with each other.²⁵ Here service delivery is an entry point for the conflict sensitive social cohesion function of civil society peace building. The question is whether this type of strategy needs to be reflected in project design as a cross-cutting theme or as a separate peace building objective, next to the development objective?

1.6.3: Advocacy and Public Communication

Advocacy is a core function within the civil society democracy discourse, often referred to as communication, as civil society brings relevant issues into the political agenda. In the same vein, it is also a core function in peace building.²⁶ Main activities within this function are: International advocacy for specific conflict issues (land mines, war diamonds, child soldiers); International advocacy for specific countries in conflict; Agenda setting: Bringing themes to the national agenda in conflict countries (road map projects, awareness workshops, public campaigns); Lobbying for civil society involvement in peace negotiations; and Participation of civil society in peace negotiations Public pressure, for example through mass mobilization for peace negotiations or against war. The advocacy function can be taken up by both, national and international civil society. First of all, it is a main function for national civil societies. An interesting example is the mass mobilization against the King of Nepal in the spring of 2006 that

²⁵Galama, A., and P. van Tongeren. 2002. *Towards Better Peace building Practice. On Lessons Learned, Evaluation and Aid and Conflict*. Utrecht: European Centre for Conflict Prevention.

²⁶Paffenholz, T., and L. Reyhler. 2005. "Towards Better Policy and Programme Work in Conflict Zones. Introducing the 'Aid for Peace' Approach." *Journal of Peace building and Development*, 2 (2), 6-23.

started as a political movement of the parties and Maoists and developed into a country-wide peace and democracy mass movement.

International civil society can also take up important advocacy functions. For example, the Swedish Life and Peace Institute has advocated for a people-based peace process in Somalia, the special role of women in peace building and the need to fund people's involvement. Its approach is to provide information and constantly advocate a bottom-up solution of the Somali crisis in various international forums, such as UN bodies (UNOSOM in the beginning), the Somali Aid Coordination Body and international conferences.²⁷ Advocacy is also relevant in all phases of armed conflict, but the degree of relevance may differ depending on the different phases: During armed conflict civil society can advocate on behalf of a peace agreement, against violence and human rights violations, for broad-based participation in the peace process as well as for specific issues. The population can be linked to the official negotiation process through broad based information campaigns, public opinion polls (Accord 2002) or more direct involvement. For example, during the peace process in Northern Ireland civil society organized 'Yes' campaigns to gain public support for the peace agreement.

In the post-conflict phase civil society can advocate against the recurrence of violence, for the implementation of peace agreements, or for important themes on the post-conflict agenda and a culture of peace within society.²⁸ Advocacy of socialization is a key civil society function that supports the practice of democratic attitudes and values within society, realized through the

²⁷Johnson, D.H. (2006), *The Root Cause of Sudan's Civil Wars, Updated to the Peace Agreement*, updated 3rd impression, The International African Institute, Oxford.

²⁸Zartman, I. 1989. *Ripe for Resolution. Conflict and Intervention in Africa*. New York: OxfordUniversity Press.

active participation in associations, networks or democratic movements. Naturally this is also a crucial civil society function in peace building which aims at inculcating a culture of peace in societies affected by conflict. The objective is to promote attitude change within society toward peaceful conflict resolution and reconciliation. The main activities within this function are: dialogue projects; reconciliation initiatives; peace education through different channels (radio or TV soap operas, street theatre, peace campaigns, school books, poetry festivals, etc.); exchange programs and peace camps; conflict resolution or negotiation training or capacity building; and joint vision building workshops for a future peaceful society.

Many civil society initiatives to support attitude change of adversary groups have been implemented as part of fostering a culture of peace in conflict ridden countries. Empirical evidence shows that this function is effective only when it reaches a large number of people.²⁹ Research evaluations of a series of dialogue projects in the context of the Israel/Palestine conflict confirm these findings as the link between these small-scale initiatives and the macro peace processes is difficult to achieve. The Geneva based international War-torn Societies Project supports groups on the different sides of the Israel/Palestine conflict separately and believes that first each group needs to be strengthened in their peace efforts and understanding, prior to joint activities.³⁰

The practical problem is that most of the many culture of peace activities are often too sporadic, lack coordination and fail to create a critical mass movement that is needed for change.³¹ The

²⁹SIDA. 2005. *SIDA's Policy for Civil Society: The Objective of SIDA's Cooperation with Civil Society*, www.sida.se.

³⁰www.wsp-international.org

³¹Crocker, C. A., F.O. Hampson, and P. Aall. 2001. *Turbulent Peace. The Challenges of Managing International Conflict*. Washington, DC: United States Institute of Peace Press.

evaluation of a multi-donors UNDP Peace Fund in Nepal confirms and adds to these findings. First, many good small local initiatives were supported with positive effects at the local level that failed to have an impact on the macro peace process as initiatives were scattered, not coordinated and failed to create a peace movement that could pressure for peace. Second, the local impact was also limited as it proved extremely hard to mobilize people for a long term process when they lacked basic human needs. Although the Fund added an aid component it did not increase participation.

On the other hand, monitoring or advocacy projects aiming at protecting and/or mobilizing people to meet their own needs and interests, could achieve good results even without adding an aid component.³² The work of the Swedish Life and Peace Institute (LPI) in Somalia suggests that a continuous and sustained engagement in promoting a culture of peace and reconciliation can have an impact on peace building. In the absence of genuine civil society groups in Somalia, LPI chose to work directly with local communities and empower community leaders to enable them to practice civic engagement, rebuild communities and promote peace building. While starting as an outsider, the LPI program quickly gained Somali ownership, organizing peace building, leadership, and transformation training courses for more than 10 years. When interviewing the participants of the Somali peace negotiations in Djibouti in 2001, researchers found that more than 60% of participants had been LPI trainees, suggesting a link between micro-level training and the macro peace process.³³

³²Lederach, J. P. (1997). *Building Peace. Sustainable Reconciliation in Divided Societies*. Washington, DC: United States Institute of Peace Press.

³³Galama, A., and P. van Tongeren. (2002). *Towards Better Peace building Practice. On Lessons Learned, Evaluation and Aid and Conflict*. Utrecht: European Centre for Conflict Prevention.

1.6.4: Protection

In the civil society discourse, protection of citizens and communities against the despotism of the state is a core function. But the civil society also needs a minimum of security and protection from state and non-state armed actors to carry out its peace building functions.³⁴ This can be a major constraint when a state weakened by armed conflict cannot guarantee security. The main activities within this function are: international accompaniment; watchdog activities (only in interaction with monitoring and advocacy function), creation of zones of peace; and human security initiatives (locally or internationally). The protection function is often attributed to outside NGOs that support national or local civil society actors indirectly, through their presence on the ground as a watchdog or directly, through international accompaniment.³⁵ A good example is the work of the INGO Peace Brigades International that sends outsiders into conflict zones to protect national peace or human rights activists. Local civil societies can also take up protection functions for their communities. For example communities in the Philippines and in Colombia have negotiated zones of peace where no arms are allowed.³⁶ Another aspect of protection is linked to security related interventions such as demining, demobilization, disarmament or reintegration of ex-combatants.

³⁴Anderson, K., and D. Rieff. (2004). "Global Civil Society: A Skeptical View." In H. Anheier, M. Glasius, and M. Kaldor, eds., *Global Civil Society 2004/5*. London: Sage.

³⁵Lederach, J. P. (1997). *Building Peace. Sustainable Reconciliation in Divided Societies*. Washington, DC: United States Institute of Peace Press.

³⁶Agency Co-ordinating Body for Afghan Relief (1993), *Directory of Humanitarian Agencies Working for Afghans*, ACBAR, Peshawar, Pakistan, .

In general, this is not a civil society function as it tends to be carried out by the state, UN or business companies (mainly in demining). Nevertheless, there are some instances where the civil society might become active, as for example in Mozambique when churches launched a demobilization campaign after the official UN demobilization process ended as they felt there were still too many weapons in the area. Monitoring is both a precondition for the protection function, as well as critical in democratization as a means to hold governments accountable. Monitoring in peace building remains closely related to protection and advocacy, but also to early warning. International and local groups monitor the conflict situation and give recommendations to decision makers or information to human rights and advocacy groups. The main activities within this function are creation of early warning systems, and human rights monitoring.

In the field of early warning there is increasing cooperation between local, national and international NGOs but also with regional organizations. In Nepal national human rights organizations cooperate with local groups while maintaining close links to Amnesty International. The ties between these groups also create space for local groups to fulfill their monitoring tasks. Examples in Africa include regional organizations (CEWARN in the Horn of Africa) that cooperate with local civil society groups for the actual monitoring, and in West Africa UN OCHA, ECOWAS and a regional NGO peace network have signed a memorandum of understanding for joint early warning.³⁷

³⁷Ylonen, A. (2005), "Grievances and the roots of insurgencies: Southern Sudan and Darfur", *Peace, Conflict and Development: An Interdisciplinary Journal*, Vol. 7 pp.99-134.

1.7: Hypotheses

The study tests the following hypothesis;

- i. Civil society plays a service delivery role that enhances peace in South Sudan after signing of the CPA
- ii. Civil society plays an advocacy and public communication role that enhances peace in South Sudan after signing of the CPA
- iii. State and civil society actors play the role of protection of citizens and communities to enhance peace in South Sudan after signing of the CPA
- iv. Civil society plays an effective role in enhancing peace in South Sudan after signing of the CPA

1.8: Methodology of the Study

The type of research design employed in this study was primarily exploratory in nature. Descriptive research design provides insights into and comprehension of an issue or situation. It should draw definitive conclusions only with extreme caution. Descriptive research design helps determine the best research design, data collection method and selection of subjects.³⁸ The research for this thesis was mainly based on quantitative and qualitative techniques. This research was based on primary and secondary data.

Primary research was conducted via key informant interviews where written responses were obtained for content analysis. The primary data was obtained through online interviews. The interviewing took a direct format, which involved the presentation of an oral stimulus in form of

³⁸Cooper, D.R. & Schindler, P.S. (2000). *Business Research Methods*: New York, McGraw Hill.

a question and a verbal response from the respondent. This instrument of data collection enabled the researcher to control the setting; it was flexible as one could probe and in the process get in-depth information; it had a large response rate; one could adopt the language to the ability of the respondents; one could also control the environment and the question order.

This research employed a descriptive research design to obtain and analyze data on the role of the civil society in peace building of post conflict South Sudan after signing of the comprehensive peace agreement. This approach was chosen because the study involves investigating variables which are not easy to quantify. Interview guide was used for primary data collection and written materials and documents from the archives were used in collecting secondary data.

Research focused on gathering primary and secondary sources, especially the views of South Sudanese. These include government officials, community and religious leaders, civil society groups, women's and youth groups and many ordinary men and women who take an interest in peace building. Secondary data was gathered by means of reviewing published books, journal articles and public documents on the subject for the relevant theories, key concepts and current opinions. The information was sourced from online journal databases such as emerald as a source of information and from the peace building in South Sudan.

The aim of descriptive research design is to discover ideas, concepts, insights, generate possible explanations and hypotheses. Descriptive research design does not provide conclusive evidence because subsequent research is expected and it tends to be qualitative not quantitative in nature. The results of descriptive research design are not usually useful for decision-making by themselves, but they can provide significant insight into a given situation. Although the

results of qualitative research can give some indication as to the “why”, “how” and “when” something occurs, it cannot tell us “how often” or “how many”³⁹. Hence, descriptive research design was the most appropriate research design for this study as the researcher aims to rely on baseline data for analysis of the civil society policies, workshops reports stakeholders to determine role of civil society in peace building. Full Reports from the workshops findings was reviewed to develop the thesis. Also, a lot of consultation was made with the representatives of civil society to develop the thesis.

1.9 Scope and limitation of the study

The study targets the civil society groups in South Sudan. As of June 2013, there are 45 civil society groups registered under the South Sudan Civil Society alliance. The study targeted key informants from each of these groups. As such the major limitations were on resource constraints, particularly time and financial constraints. By the descriptive nature of the research design employed, it required a substantial amount of time acquiring information from the respondents within a limited time as provided by the respondents. Financial constraints were also inevitable, with respect to traversing the various locations in search of the groups’ key informants.

³⁹Cooper, D.R. & Schindler, P.S. (2000). *Business Research Methods*: New York, McGraw Hill.

CHAPTER TWO

HISTORICAL OVERVIEW OF ROLE OF CIVIL SOCIETY IN PEACE BUILDING IN SOUTH SUDAN 2005-2012

2.0 Introduction

This chapter examines historical overview of role of civil society in peace building in South Sudan during conflict up to after signing of the CPA i.e. historical Context of the role of civil society in peace building in South Sudan, overview of Conflicts in South Sudan, the role of civil society in South Sudan Referendum, the role of civil society in Mekelle Memorandum and key Issues in civil society intervention.

2.1. Historical Context of the role of civil society in peace building in South Sudan

The Sudan has gone through two harrowing civil wars since its independence from British colonial rule in 1956. The Anyanya I war lasted until March 1972, when the Addis Ababa Peace Agreement⁹ signed with General Nimeiri granted limited autonomy to the South. What is now known as South Sudan experienced decades of relative peace and a degree of development subsequent to the signing of the Addis Ababa Agreement, with the support of the international community, and faith based organizations, for example churches. However, the Northern policies towards the South consisted of ongoing marginalization and Islamisation, accompanied by the introduction of Sharia Law by Nimeiri in 1983 and they prompted Southerners to rise up once again against the Northern regime.

On May 16, 1983, a group of soldiers led by Colonel John Garang de-Mabior mutinied against the Sudan Army. This historic rebellion led eventually to the formation of the Sudan Peoples'

Liberation Army (SPLA). Throughout the 1980s the SPLA/Movement, received much support from the neighboring countries¹¹. Though, John Garang was confronted with increased internal opposition, which culminated into an attempt to overthrow him on August 28, 1991.⁴⁰

This revolt led by some commanders failed but resulted in a split of the liberation movement. In an attempt to divide and rule, the Khartoum government supported the rebellious faction militarily as well as financially and this led to many clashes between the SPLA/M and the opposition. Even so, in 2002, the South Sudanese were reunited.

The consequences of the war were grave, including gross violations of human rights. Large parts of the population were displaced and all socioeconomic systems were disrupted¹⁴. Hospitals, schools and roads were all destroyed. In 2003 the SPLA/M and the Khartoum government agreed on a ceasefire that led to the signing of the CPA (Comprehensive Peace Agreement) in 2005. This brought to an end to the 22-year conflict between the North and the South. Although some insecurity remains, Southern Sudan is relatively peaceful today.

2.2 Overview of Conflicts in South Sudan

Understanding South Sudan's complex of conflicts is an essential step in establishing the linkages between conflict and stability in the region. South Sudan's history of marginalization has produced a complex web of dynamics that often provokes conflict. There are varying views on the causes that relate to all conflicts in South Sudan. Therefore, it is important to underlie some general issues, which relate to all conflicts in Southern Sudan, and there are specific factors underlying some particular conflicts. Historical methods of conflict mitigation and resolution by respected leaders, where negotiation of land, grazing and water rights need to be shared, have

⁴⁰B.A. OGOT *et al.* (eds), *Africa from the Sixteenth to the Eighteenth Century*, in *Unesco General History of Africa*, Paris, Unesco Publishing, 1999, p. 89.
5 Sudan, Abyei arbitration, <http://reliefweb.int/node/317681> (accessed 9 July 2011).

fallen foul to the manipulation of armed malevolence for personal gain. In addition, too many people, particularly the young people in villages, are in possession of small arms. Rule by the force of a gun replaced rule by respect for values and by the decree of those in authority, whether it is the judge, the chief, the parents or the policeman or woman. Given the years of conflict, many people, particularly in rural areas, feel they are distanced from the normal services⁴¹ provided by the government in general and their security and rule of law institutions in particular.

The situation is also exacerbated by ambiguity over the separation of powers between the law enforcement organs and the fact that most civilians are armed. The presence and uncontrolled use of firearms by civilians remains a serious concern. The issue of protracted war has brought a culture of violence and proliferation of small arms, which in turn is perpetuating more violence. Like any systematic change, removing firearms from one community while allowing the neighbor to keep theirs may not reduce violence but bring it about – such plans need careful negotiation and implementation, with appropriate measures to overcome any real or perceived imbalance of security in either community until the disarmed new context becomes accepted all round.

With the advent of independence, it remains a challenge to provide sufficient security. Fear that there is an insufficient provision of security can lead communities to take up arms in order to provide the level of security they think they need. Many institutions are still learning their roles and responsibilities and will take time to overcome these concerns after so many years of conflict. Many ex-combatants were asked to fill the ranks of related rule of law and local government agencies, mostly without time to train them properly or allow them to gain

⁴¹Addis Ababa Agreement, 1972, http://en.wikipedia.org/wiki/Addis_Ababa_Agreement (accessed June 11, 2011).
10 Sudan, <http://www.cmi.no/sudan?id=8&Sudan> (accessed August 19, 2011).

experience in a peaceful context. Now, they face increased pressure to perform, sometimes with the continuing pressure of delivery in a conflict environment.

In addition, the strong and active tradition of heavy dependence on cattle as the source of livelihood persists. Although cattle are used for many purposes such as payment of dowry, income source, food, wealth etc. performing a single traditional marriage would cost a family up to an average of 100 heads of cattle and this is very costly to an average family household, thus resulting into cattle raids and counter raids, flaring insecurity. Therefore, the urge for young men to get married propels them in cattle raids and conflict with other communities. Poverty has made cattle rustling a function of apparent “wealth” acquisition and enhancement of economic and social status. In the circumstances there is a clear lack of sustained economic activities in all the states and communities fall back on cattle. Schools, road and health facilities are poor and communities lack means of income generation.

Another area of concern includes lack of economic opportunities that remains difficult, particularly in rural areas, to make a living in South Sudan; economic opportunities are still limited. Most are employed in traditional agriculture, animal husbandry, forestry, commerce and low-level trade, crafts, construction and services. The economically important oil sector generates little employment for South Sudanese. Some of the reasons cited for the lack of progress include:

- The scarcity of infrastructure, and thus of land served by roads, water points and accessibility to markets;
- Unclear land tenure policies, rules and practices;

- The challenge of providing security and rule of law, thereby enforcing rules and decisions and resolving conflicts peacefully;⁴²
- The Territorial And Symbolic Role of Land in Inter-Communal Disputes, Which Are often making a claim on administrative resources.

Claims over land now appear to have been intensified in some areas because of speculation on its future value, and on the possibility of it bearing minerals.

The above causes show that conflict in South Sudan is a complex and multi-dimensional process. In many cases the above factors act together to build pressures, which if not mediated, spill over into conflict.

2.3. The role of civil society in South Sudan Referendum

The South Sudan Referendum Commission made the final results of the referendum public in Khartoum on February 7, 2011. The world's newest country has been born with confirmation that southern Sudanese were almost unanimously for independence from the North. This referendum was conducted as a requirement of the CPA. The South Sudan referendum was the most vital element of the CPA. Meanwhile, the two governments of North and South Sudan had begun the process of disengaging national institutions to form two separate and independent countries as well as to look to the challenges and expectations that lie ahead.

However, general fears are being expressed about the political situation of the new state after independence. Some observers call it a failed state in waiting that was marred by political instability and ethnic tensions. There is no doubt that the peace agreement has kept its main promise to stop the war between the Government of Sudan and the SPLM/A. South Sudan and

⁴²M.O. Beshir, *The Southern Sudan: Background to Conflict*, Khartoum, Khartoum University Press, (1970), pp. 37-55.
 15 J. Douglas, *The Root Causes of Sudan's Civil Wars*, Bloomington, Indiana University Press, 2003, p. 142.

the North have mostly kept the peace. Ending the war is a great achievement; better security and communication have remarkably improved the lives of Southern Sudanese. Nevertheless, the peace agreement has been likened to a cease-fire, since a number of difficult issues have been postponed to future negotiations.

The main protagonists in the referendum from both the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) have not agreed yet on several post-referendum issues. Critical components of those negotiations cover citizenship, Abyei, oil revenues, Nile water sharing, and borders among others. Unless resolved, these outstanding issues will continue to cause tensions. The necessity for the future sovereign Sudanese states to cooperate and to build and maintain two economically viable states is fundamental in order for political, economic and social development to take place in the region.

The signing of the CPA, in Nairobi Kenya ushered in a new era of hope for South Sudan. Since that date the three arms of Government: the Judiciary, the Executive and the Legislature have worked ceaselessly to build institutional capacities thus preparing Southern Sudan for the greater role of becoming a new nation. The SPLA has also worked hard to transform itself into a modern National Army. The six years since the signing of the CPA has also resulted in the formation of requisite institutions such as the Human Rights Commission, the Anti-Corruption Commission, the Auditor General's Chamber, the Peace Commission, and others.

The SPLM, as the current ruling party, urges the participation of other political parties in government and representation in parliament. It has also spearheaded a number of dialogues with Sudanese political parties and civil society, including kings, chiefs and community leaders to bring about national reconciliation and healing for sustainable peace. Government of Southern Sudan has, together with the 10 State Governors, held annual Governors' Forums to address

developmental issues at state ⁴³level. It has also embarked on Public Service Reforms aimed at bringing about a lean but efficient and effective Civil Service in the post-CPA period.

The six years since 2005 South Sudan also paved the way for tangible peace building and conflict prevention. Donor countries, United Nations agencies, the international and national Non-Governmental Organizations (NGOs) have worked diligently to ensure that security, roads, health, education, and agriculture are prioritized. With all the above achievements and hard work, Southern Sudan is now poised to reap the benefits befitting a new nation state. Overall, most provisions of the CPA have been implemented. The Interim Constitution of Southern Sudan (2005) and the interim constitutions of the ten States of Southern Sudan have been promulgated and are operational. On the basis of these constitutions, most institutions have been established and are functional.

While the above accomplishment is rewarding, as Southern Sudan moves from semi-autonomous to independent state, tensions are high with fears of internal insecurity and external aggression. There was no violence associated with the January 2011 referendum process, but there has been serious displacement and violence in three main areas since. The escalating tensions in Jonglei, Malakal and Abyei provide a reminder of how quickly violence can erupt and the devastating impact it can have on the livelihoods of people barely recovering from decades of civil war. These three areas remain key flashpoints for current and future violence and the response of national and international actors to the violence being perpetrated there will have a defining influence on the security context of a newly independent state.

⁴³A.I. WADI, *Perspectives on Tribal Conflicts in the Sudan*, Khartoum, University of Khartoum, IAAS, 1998, p. 41. 22 *Ibidem*.
23 Author's interview with Officials at Ministry of Cooperative and Rural Development, Juba, August 17, 2011.

2.4 The role of civil society in Mekelle Memorandum

In June 2010, the CPA parties signed a Memorandum of Understanding in Mekelle, Ethiopia that committed them to a discussion of the post-referendum issues and outlined its modalities. Such talks would be grounded in the peace agreement but not constitute a renegotiation of it. A joint negotiating team was established, with six members from each party. Four clustered working groups were also established: (1) Citizenships, (2) Security, (3) Financial, Economic, and Natural Resources, and (4) International Treaties and Legal Issues – to review potential arrangements on each issue and feed in to a joint high-level negotiation team. Each group had three to five negotiators from each party and was supported by technical experts as requested.

The talks were bilateral, with an option to request the facilitation of the African Union High-Level Implementation Panel (AUHIP) or other external technical assistance when deemed necessary. According to the facilitator's terms of reference, AUHIP presence in direct negotiations would require the request of both parties, but the panel could initiate discussions, raise issues with either party, provide technical and political advice and be proactive in making proposals.

However, substantive negotiations were limited and there was little progress to report. Working groups were handicapped by the interconnection of issues, minimal sequencing of the agenda and the absence of strategic directives from the parties. The SPLM had too little technical expertise and felt access to information was controlled by their NCP counterparts in government. Requests for disclosure, particularly regarding oil statistics and other economic issues went largely unanswered.⁴⁴

⁴⁴D. SMITH, *Soudan referendum results conformed*, «the Guardian», February 2011, (accessed March 19, 2011). 25 *Ibidem*.
26 Author's interview with a confidential SPLA source, Juba, August 17, 2011.

Indeed, significant hurdles remain before peace in South Sudan can be assured for the long-term. Any future peace agreements between the South Sudanese government and dissident elements will face serious challenges in their implementation and remain vulnerable to security threats from spoilers. Ultimately, confidence-building and addressing the root cause of conflict in the South takes time and action, and cannot be achieved simply through paper contracts.

During the CPA period of 2005-2011, negotiators believed that more time would be needed to complete the various negotiations up to a compromise allowing the original timetable to go ahead, as the South wishes, with outstanding matters to be resolved after independence. Both sides are aware that the Eritrea and Ethiopia went to war not just over a disputed border but because of wider issues, especially financial and trade questions, not fully thought through at separation.

These obstacles toward peace are primarily the responsibility of South Sudan's leaders, but the international community also has a supporting role to play. Having helped broker the CPA in 2005 and usher in a historic vote for independence, the international community has had a history of positive engagement with Sudan; it should capitalize on these efforts to see the peace prevails in South Sudan for the long term. Mitigating threats from militias will necessitate not only reconciling and integrating dissident elements, but structural changes to the army and government themselves.

Foreign interference and assistance prolonged these, but external involvement has also been vital in Sudanese peace processes. This was the case with the CPA; the peace process that culminated in the agreement was led and hosted by the neighboring countries through the Inter-Governmental Authority on Development (IGAD), with support for further afield, in particular the United States, United Kingdom, South Africa and Norway. These countries have now

intensified their involvement in discussions of post-CPA arrangements. This landmark achievement which was followed by the adoption of an Interim Constitution brought peace to most of the country for the first time in a generation.

South Sudan has drawn international attention because of the long referendum process. The CPA provided for a referendum six years after its signing in 2005. The CPA also implied that Southern and Northern Sudan would function as two countries during the interim periods of 2005-2011³⁷. However, there is potential for serious social, political and military challenges to the Government of Southern Sudan (GoSS) even after independence, which could complicate the process of state formation in the newly independent state.

As South Sudan focuses on recovery and development, the country faces a number of key challenges. Recent tensions in north-south border regions have also highlighted several security issues that constitute potential flashpoints for renewed conflict, including the environmental impacts of the oil industry and the management of the country's water resources. Security will continue to attract substantial resources in the early years of independence as DDR (Disarmament, Demobilization, and Reintegration) programmes continue and there is a transition to a more streamlined defense force. Similarly, as returnees are resettled, and food security improves, the need for humanitarian assistance is expected to decline as well³⁹.

2.5 Key Issues in civil society intervention

There are still key issues that need to be ironed in the newest African state. The challenge that the post-independence South Sudan issues brings is immense and the strategies to address that challenge are complex and slow. The main protagonists in the referendum from both the NCP

⁴⁵and SPLM have not agreed yet on several post-referendum issues including citizenship, Abyei, oil revenues, Nile water sharing, and borders among others.

2.5.1 Citizenship

The complex part is that the CPA did not clearly spell out the fate of Southerners living in the North after separation. There are southerners in the North and also there are northerners in the South. According to some estimates there are over two million Southerners living in the North. With the referendum on January 9, 2011 there was naturally the fear of the unknown as to what would happen to southerners in the North since the South boldly voted for independence. Noises from prominent northern leaders of denying southerners in the North basic services if the South chooses independence have not yet come true.

It stands to reason that NCP will predictably argue that Southerners in the North will forfeit their Sudanese citizenship; hence rights of employment, ownership, residency and entry to North Sudan could all be revoked. More so the critical challenge is with regards to the many Southern citizens, who are employed by various state institutions, particularly in the military and police force. How the status of Southern citizens was settled and what are the mechanisms that were adopted by both the NCP and SPLM to overcome some of these and other associated issues are questions that remain unanswered. In addition, many political and military leaders are now coming back to Southern Sudan after years of working in the North or abroad. The way the SPLM-led government handles this entire process will to a large degree define the nature of the post-independence state in Southern Sudan.

The proposed agreement affirmed that no person's nationality or citizenship would change during the CPA period, regardless of the referendum outcome. Citizens would remain entitled to

⁴⁵The Mekelle Memorandum, http://www.ethioembassy.org.uk/news_archive/mekelle_memo.htm (accessed May 13, 2011).

live anywhere in the country, and their rights as such would remain intact. In the event of secession, a person's status would not be determined until a new state was established in the South after the end of the CPA interim period in July 2011, new citizenship and nationality laws were established in that state, and existing laws were clarified in the Northern state⁴². After these conditions were met, a constitutionally protected transitional period would ensue in which a person might freely choose to retain or acquire citizenship in either.

The text was largely compatible with a previous SPLM proposal and grounded in state practice and international law. The NCP instead proposed that any person deemed eligible to vote in the referendum would be limited to Southern citizenship and would lose citizenship rights in the North. The question is what might such a policy mean for Northerners in the South? Since the policy appeared inconsistent with existing citizenship laws, was it not a slippery slope with potential implications for many groups in the North?

Therefore, it would be helpful for the international community to monitor the treatment of southerners in the North and the treatment of northerners in the South. Above all it should be part of the undertaking that the North and the South should agree on the safety and welfare of all Sudanese. Dual citizenship may be suggested as the solution. The danger here, however, is that people may have divided loyalty in contrast to being a citizen of only one country. It may be argued that when southerners in the North are given dual citizenship this may not alter their loyalty to the South and so southerners in the North may still suffer harassment.⁴⁶ On the other hand dual citizenship may improve North-South relations in the long term. Another solution is for the North and the South to have special relations. This means that northerners in the South do not need to take southern citizenship but was treated equally with their southern counterpart.

⁴⁶J. YOUNG, *Sudan IGAD Peace Process: An Evaluation*, May 30, 2007, p. 14. The IGAD "Declaration of Principles" was the first suggestion of self-determination by an international body. It also affirmed recognition of Sudan's racial, ethnic, religious and cultural diversity, avowed political and social equality and insisted on the separation of religion and state.

This should also apply to southerners in the North. In the special relations northerners and southerners may not need a passport to cross their common international borders either by air, land or sea. As part of the special relations peaceful co-existence should be for dividends to the North and the South.

Finally, the North and the South have a lot to gain by being good neighbors in harmony with each other. People need to move on from conflicts of the past to the future of opportunities to turn the region into a land of prosperity for all. The masses both in the North and the South have the same basic needs for a better and higher standard of living. This is the challenge to the North and the South, nonetheless it is hoped common sense will prevail.

2.5.2 Abyei

Located between Northern Bahr al Ghazal, Warrap and Unity states to the South and Southern Kordofan to the North, Abyei is geographically, ethnically and politically caught between North and South. It is home to the Ngok Dinka, while Misseriya nomads migrate seasonally through the territory. The Misseriya belong to a group predominantly Arab Muslim, named Al Baggara. The Dinka Ngok belongs ethnically and racially to the South, and is predominantly Christian⁴³. Abyei has long been and remains a flash point, where land, nomadic grazing rights, security and oil contribute to volatility. By way of a protocol, the CPA granted the disputed territory special administrative status under the presidency and its own January 2011 referendum to decide whether to continue that status within the North or become part of the South which is now postponed indefinitely. Just as Abyei threatened to spoil CPA negotiations in 2004, it became clear the issue might prevent an agreement on post-independence arrangements if left unresolved.

Moreover, Misseriya feared that secession of the South possibly including Abyei could result in a loss of grazing rights, thereby threatening their way of life that was practiced for centuries. Some in Khartoum have stoked such concerns and encouraged the Misseriya to fight for participation in the Abyei referendum. The conflict involves the Dinka Ngok ethnic groups supported by the SPLM and the Misseriya ethnic groups supported by the government of Khartoum. The two groups compete over which has rights to the territory and essentially the right to grazing and water resources.

While conflicts between these groups were managed relatively successful in the past through customary land tenure systems, this is less and less the case today as a result of larger herds, reduced water and pasture, instability and prejudices stirred up by the war, and a proliferation of arms among herders. In addition, patron-client politics, weak natural resource management and development policies, and top-down government institutions have encouraged ethnic polarization and social divisions.

Moreover, the Abyei issue is considered the key point to a lasting peace between North and South Sudan. Abyei is a fertile region that has oil deposits between North and South Sudan. However, Abyei's future is very much up in the air, and observers worry the region could again⁴⁷ erupt in civil war. Fear is pushing the Ngok Dinka, the town's dominant ethnic group, to consider declaring Abyei part of the South, even though they know that such a move might provoke the North to try to take Abyei by force.

If Abyei's status is left unresolved, the area was caught between two nations, possibly triggering a return to conflict in Sudan. The 2005 peace agreement, which ended the war, promised the people of Abyei their own referendum on whether to be part of the North or South. The Abyei

⁴⁷African Union Archives, *The Comprehensive Peace Agreement Between The Government of The Republic of The Sudan and The Sudan People's Liberation Movement/Sudan People's Liberation Army* (document is in the author's possession).

referendum was supposed to be held simultaneously with the main Southern referendum⁴⁶, but the two sides failed to agree on who was eligible to vote. As a result, the Abyei referendum has been postponed indefinitely.

Currently, the situation in Abyei has the potential to degenerate into conventional armed confrontation with increased force mobilization by the armed forces of the North and South. However, there is real concern that the conventional forces can be drawn into a stalemate position and militias and other spoilers are used by both Khartoum and Juba to perpetrate violence in an effort to influence the political situation.

There is still a lot of uncertainty regarding the possibility of holding the referendum in Abyei. The Dinka Ngok had a meeting and issued a statement according to which they would organize their own referendum if it does not take place and they would not allow Misseriya groups to use grazing lands. In parallel, the Misseriya have decided to set up their government. These developments were described as very worrying. Similarly, it was feared that a separate resolution or agreement between the parties on the referendum in Abyei outside of the CPA would create a precedent to deal with other CPA items separately. These potential tensions will require close monitoring and contingency planning by the African Union (AU) early warning bodies in close coordination with relevant regional and international bodies to ensure early warning and early action, might it be humanitarian, security, technical, political or economic. Increased clashes could push relations between NCP and SPLM to breaking point. As the single most volatile post-independence issue between the two CPA parties, the Abyei dispute could block or derail the negotiations.

Following clashes in January 2011 between Missiriya militia forces and a Joint Integrated Police Unit (JIPU) that left over 30 dead, two meetings were organized to improve the situation⁴⁸. The first was held on January 13, 2011 between Missiriya and Ngok Dinka elders to discuss migration routes through the area. The elders agreed in principle that the Missiriya would be allowed to pass through Abyei in search of pastures as long as blood compensation was paid for Ngok Dinka deaths that occurred during the last migration season and migration routes through the area. As of the beginning of March 2011, the Misseriya have offered to pay the compensation, but there is no agreement on the grazing routes⁴⁹. Despite this, Missiriya have continued entering Abyei and are currently grazing their cattle around the Ragaba es Zarga, a river running through the territory, approximately 30 km from Abyei town. As they press further south, the absence of a grazing agreement was come increasingly problematic.

Furthermore, nothing guarantees the ethnic groups involved in the Abeyi case can be mobilized to secede from South Sudan and create yet another new state, especially since the ⁴⁸southern population hopes that secession will bring about a quick improvement in the quality of life and expectation present in most secessionist regions, but one the very young and inexperienced South Sudanese government will find impossible to meet.

The conflict between the ethnic groups, government and militias was fuelled by the significant oil reserves developed by foreign companies. This exacerbated the conflict because the huge potential profits increased the incentives for control of the land, resulting in all kinds of human rights violations.

⁴⁸African Union Archives, *The Comprehensive Peace Agreement (CPA) Misserya forms alternative government for Abyei*, «Sudan Tribune», December 4, 2010.

2.5.3 Border

Again, oil – an estimated over 80% of the oil fields are in the South (depending on where the border is drawn). The sole export route for the landlocked South is a pipeline running to the north to Port Sudan on the Red Sea. Under the CPA, the two sides divide proceeds from oil pumped in the south. They will have to negotiate how to share oil revenue, as well as any user fees levied against the south for using the pipeline and refineries. The two parties must also negotiate how to honor current oil contracts.

Nonetheless, governments of Sudan and South Sudan signed in October 2011 an agreement over border security, stipulating the establishment of 10 border corridors to ease the movements of citizens between the two countries, as the Sudan Minister of Defense, Abdul Rahim Mohammed Hussein told journalists, after meeting with his South Sudanese counterpart. The Minister disclosed that establishing the corridors aims at easing the interconnection between the people of the two countries, affirming that the concerned parties in both countries will continue their work in the demarcation process. For his part, the South Sudanese Minister of Defense described the meeting as successful adding that it is the first meeting between the two countries to discuss the bordering issues, stating the good relations between the two nations.

2.5.4 Sharing of resources

2.5.4.1 Oil Revenue

Chinese and Indian companies dominate oil production in South Sudan but according to Amum, the secretary general of the SPLM and negotiating team, which has been meeting with their⁴⁹ Khartoum counterparts in Addis Ababa, he hopes that South Sudan's disassociation with Khartoum will allow more Western companies to invest and have a presence there. There's a lot

⁴⁹Crisis Group Briefing, *Defining the North-South Border*, September 2, 2010. 45 Various author's discussions with a staff of the Embassy of South Sudan, June 2011.

of interest from companies from the Western world... the pariah nature of the Sudanese system made it politically difficult for Western companies to be engaged.

The sharing of oil revenue is an important contestation. Both the North and South Sudan depend heavily on oil revenues, and independence alerted resource ownership and current wealth-sharing arrangements. Oil was not addressed in great detail in the CPA talks. There should have been some level of agreement before the referendum, not only because both economies need uninterrupted revenue, but also in order to sustain the confidence of oil companies in their existing investments.

Norway has been providing technical support and advice on petroleum sector management, assisting the National Petroleum Commission in preparation for an audit, and supporting assessment of prospects in the face of declining production. It has engaged both parties on models for cooperation and optimization of economic potential.

In addition, the AUHIP document proposed a joint review of all government assets and liabilities and principles for equitable allocation; it agreed to fully fund and complete the Popular Consultations processes in Blue Nile and Southern Kordofanian before the CPA interim period; it committed to principles for a soft North-South border including a joint funding mechanism to promote cross-border activities; and it put forward a series of less binding principles on security, water and continuation of joint exploitation of oil resources.

While South Sudan enjoys a certain degree of autonomy by having its own legislature, security forces and control over governmental revenues, a separation between the two regions would mainly lead to an increase in the oil revenues that South Sudan receives, consequently lowering profits from oil exploration for the North. Yet, the South possesses no infrastructure to sell its oil on the world market, as all of these are located in the North. It barely has any paved roads,

making it impossible for trucks to carry its oil, and there is no pipelines connecting its oil fields to other countries. Hence, the issue of wealth sharing might prove to be difficult to negotiate, and the destiny of Sudanese oil exploration unclear.

Perilously, the territorial division proposed by the referendum runs along the conflict lines of the three decade civil war, a historical fact which weighs on the relationship between both players. Due to the heavy militarization of the border, even small skirmishes might trigger a broader conflict, especially around the town of Abyei which is supposed to have its own referendum to decide whether to stay with the North or the South.

Currently South Sudan is totally dependent on Port Sudan located in the North. Therefore, for the next five years South Sudan will have to rent the Northern oil pipeline, refineries and facilities at Port Sudan to sell its oil. In the meantime, South Sudan officials insisted that building an oil pipeline through Kenya to the Indian Ocean may be more cost effective than paying the transport and refinery fees demanded by North Sudan. Furthermore, under a 2005 peace deal South Sudan shared its oil wealth 50-50 with Khartoum for six years. Since southern independence a new deal has been hard to come by. Sudan's president has threatened not to allow South Sudan to use its infrastructure unless it pays \$32 a barrel.⁵⁰

South Sudan, which began negotiations by offering less than half a dollar per barrel, says it will not accept customs fees above \$7 per barrel for oil from new oil fields and \$4 per barrel from existing ones. If not handled diplomatically this could trigger a wave of unrest, raids and attacks on the South.

⁵⁰African Union Archives, *The Comprehensive Peace Agreement (CPA)*..., cit. *Misserya forms alternative government for Abyei*, «Sudan Tribune», December 4, 2010

2.5.4.2 The Nile agreement

About 14% of the Nile waters pass through Southern Sudan to the north and Egypt. Some billion cubic meters more could be extracted from the Southern Sudan where it is currently lost to evaporation. Yet the CPA does not deal in any detail with Nile waters. Despite the CPA's neglect of Nile waters, recent developments have led six of the upper riparian states including Ethiopia, Kenya, Rwanda, Uganda, and Burundi to sign the new Nile water sharing agreement known as the Cooperative Framework Agreement in Entebbe, Uganda on May 14, 2010. Upon its ratification by the respective legislatures of the signatory countries, the CFA was binding to all members of the Nile Basin Initiative (NBI). The Nile Basin Commission was established upon ratification of the CFA instrument by a majority of six member states. This has made it inevitable that Nile waters issues would be included in the post-independence arrangement.

Another area of concern for South Sudan, Sudan and Egypt alike was the resumption of work on the Jonglei Canal. After the initial implementation on the 1978 project and after two-thirds of the canal had been dug, a series of SPLA attacks forced suspension of the work in 1984. The emergence of the South as an independent state would have a dramatic effect.

Though water and sanitation services and electrification have received priority attention due to their impact on poverty, growth and human wellbeing, currently only 55% of the population has access to improved sources of drinking water and sanitation remains a challenge with 80% of the population not having access to any toilet facilities. The Nile is the only resource of water for the entire population in and around Juba and the major water facility is under function due to electric shortages and outdated machinery that needs constant maintenance. This led to unregulated water pumping from the Nile at both individual household levels and commercial ⁵¹levels as a

⁵¹*Sudan's oil fee demand forces South to consider new pipeline*, C:\Users\User\Desktop\Post referendum Sudan\Sudan's oil fee demand forces South to consider new pipeline - Sudan Tribune Plural news and views on Sudan.mht (accessed September 11, 2011).

whole. Despite this concern there is no data available to measure the amount of water withdrawn from the Nile.

Regarding how the Nile's water sharing would be solved, the Undersecretary of the Ministry of Water Resources highlighted that the Nile water issue can only be tackled effectively through regional and international cooperation and a continuous efforts by negotiations to divide the Nile to everyone's benefit and to support cooperation over common interests. South Sudan is committed to cooperate with Egypt and North Sudan and Ethiopia on a project-by-project basis. South Sudan believes that this can be achieved as a parallel approach: the project track and the CFA track.

As far as the CFA is concerned and the possibility of South Sudan's signing: to date South Sudan has only an observer status on the NBI and cannot be a part of the signatory party, but once the state is fully established, it will decide its position on the agreement. In regards to the 1959 Agreement, South Sudan supports a fair distribution of the Nile water and clearly stated that it is entitled to and expects a share of the 18.5 billion cubic meters of water that was allotted to Sudan, the argument being South Sudan was part of that process and could play a significant role including the construction of the Jonglei Canal that is located in its territory.

In addition, responding to a question about how the Nile Waters issue would be solved in case of secession, Pagan Amum, secretary general of the SPLM, told *al-sharq al-awsat* that the Nile Basin states should enter negotiations to divide the Nile to everyone's benefit; to agree on how to manage water to ensure that all rights are protected; to protect the Nile itself from disaster; and to support cooperation to attain common interests. In regards to the possibility of Southern Sudan signing the CFA in case of secession, Amum said: We support fair distribution of the Nile

waters, but we are not a state yet, and we will decide our position on this agreement should we become a state. This is a question that must wait until 2011.

A water crisis may well develop between North and South. Once agricultural projects in the South are rehabilitated, they will need water. Water consumption would also increase with the return of displaced people and refugees.

Southern Sudan will not be able to change the facts of geography, nor the direction of the flow of the Nile River; nonetheless their position will have a tremendous impact on the politics of the Nile and the disputed sharing of Nile waters. Sudan, Egypt and the group of upstream countries would all work hard to bring the new state into their camp.

The issue of South Sudan secession is a sensitive one to Cairo largely owing to its impact on the Nile Water Agreements and the possible reallocation of shares. Sudan and Egypt may reconsider their position regarding inclusion of inherited right in the CFA. Egypt and Sudan may want to cooperate with other Basin states in accordance with international law.

Southern Sudan could also assume the role of mediator between the upstream and downstream countries for fair distribution of water and enhancement of basin-wide cooperation rather than collective standing with one side or the other. Egypt will continue discussions with other riparian⁵² countries and cooperate to build a bridge and reach a final agreement that will satisfy all the Nile Basin countries.

As a Nile-valley neighbor to the North, Egypt will inevitably be affected by Sudan's political transition. It is important for the development of the whole region that Egypt finds a way to continue constructive interaction with political forces in both Northern and Southern Sudan. The Sudan is building new dams with the support from China, a country over which Egypt has little

⁵²African Union, *African Union High Level Implementation Panel on Sudan*, Khartoum, November 15, 2010, http://www.africa-union.org/root/ar/index/AUHIP_Statement1.pdf (accessed December 7, 2010).
Author's interview with Professor Samson S. Wassara, University of Juba, South Sudan, Juba, August 17, 2011.

influence. It has been predicted that by the end of 2010 Sudan was using its entire water allocation under the 1959 treaty, thus disposing of any surplus flowing north to Egypt.

Furthermore, an independent South Sudan reopens the issue of the Jonglei Canal, which is intended to benefit Sudan and Egypt by bypassing the South; John Garang, the late SPLM leader, favored the canal in principle, but political sentiments in a newly separate South Sudan are far from clear. It appears that the immediate situation was one in which Egypt and Sudan still stand together in regard to CFA, since Sudan is not likely to benefit under a new agreement. However, the way in which South Sudan sees Jonglei is less clear: Egypt suggested that it could recognize the separation of the South in return for its support of the status quo on the division of the waters, but the South will also have to consider its relations with upper riparian states neighbors and their position on the CFA. In addition to the Jonglei canal itself, there are reports of Egyptian engineers working on smaller scale operation related to improved water management and flow on tributaries of the White Nile, especially the Bahr al-Ghazal. Moreover, on August 9, 2006 Egypt and South Sudan signed a memorandum of understanding regarding technical support, assessment of water project including forecasting flood and drought, and restudies of the Jonglei Canal.

The Egyptian minister of Irrigation and Water resources visited Southern Sudan in April 2007 to confirm his government's commitment to this agreement. A joint delegation from the national ministry of Irrigation and the South Sudanese government also visited Egypt. According to press accounts, that visit resulted in a memorandum of work on the Jonglei Canal. Completion of the Jonglei Canal would increase Egypt's share of Nile waters. On May 9, 2010, the Egyptian Minister of Foreign Affairs, Ahmed Aboul Gheit, and Omar Suleiman, the Egyptian Chief of Intelligence, visited Khartoum and Juba to emphasize Egypt's strategic interest in the security,

unity and stability of Sudan. «We will do everything in our power to save the unity of Sudan», Abul Gheit told reporters in Khartoum after talks with President Beshir.

Various means are being used to strengthen the Egyptian position in the South in case of secession, including investments in development projects. In July 2010, Egypt announced a \$300 million grant for building potable water complexes, drilling thirty wells, setting up river ports, and upgrading electricity and water networks. New programmes in the South have included numerous university scholarships for Southerners, as well as support for schools, hospitals and water projects in the region. Indeed some have even remarked that Egypt has done far more to make unity attractive for the South than the North has done.

Egypt is working to bring the independent Southern state around the collective stand of Sudan and Egypt against other riparian countries. This, however, raises the question of whether an⁵³ independent South's interests would be better served by cooperation with neighboring upstream riparian countries or by cooperation with Egypt and Sudan. The Egyptian position would also be affected by relations between the new Southern state and the North: if North-South relations deteriorate, Egypt would need to consider its own interests.

⁴⁵ Barnes, C. (2012). "Weaving the Web: Civil-Society Roles in Working with Conflict and Building Peace." In Paul van Tongeren, et al., eds., *People Building Peace II, Successful Stories of Civil Society*, 7- 24. Boulder, CO: Lynne Rienner Publishers.

CHAPTER THREE

AN ANALYSIS OF THE ROLE OF CIVIL SOCIETY IN EAST AFRICA, A REVIEW OF KENYAN AND UGANDAN CONTEXT

3.1 Introduction

This chapter deals with comparative analysis of the role of civil society in East Africa. Civil society may be seen as an arena where manifold social movements and civil organizations from all classes attempt to constitute themselves into an ensemble of arrangements so that they can express themselves and advance their interests (Bratton, 1989a: 417). The concept of civil society has become central to the contemporary discourse on democracy and democratization.

In Africa, the authoritarian character of the post-colonial state is underlined by its dominance of civil society. The state has tended to rationalize this dominance on the grounds that the imperatives of rapid economic development and nation building would not permit any accommodation to the oppositional activities of individuals and groups. There is, however, an emerging view of the central role of civil society, religious ideas and NGOs in the process of political liberalization and democratization on the African continent. Democratization is seen as a political process, as it has to do with the transformation of state and political society.

The spontaneous resurgence of civil society in Kenya and Uganda, and indeed in much of Africa, is a common explanation for this change. Fed up with poverty, economic mismanagement and authoritarianism, civil society, although still weak, has risen up to challenge authoritarian rule and demand good governance and democracy. Religious organizations and NGOs, in some instances, have spearheaded this trend. The proponents of civil society believe that the existence

of an active civil society is crucial to the vitality of political democracy. NGO made a promise that it will contribute to the needed democratization of African countries by pluralizing and strengthening civil society.

This paper examines, in comparative terms, the theoretical and empirical basis of these claims in the Kenyan and Ugandan context. The comparison serves as a pivot for arriving at a comprehensive historical and sociological appreciation of the differing contribution and contradictory tendencies of civil society to the democratization processes in the two countries. It is argued that the notion that generic civil society is uniformly progressive in challenging the African authoritarian state and in advancing democratization may not be accurate. As Kasfir (1998b: 126) observes, non-state organizational actors in the African civil society may be capable of no more than modest, tentative and often reversible contributions to democratization.⁵⁴

Assessing whether these actors strengthen democracy requires a notion of civil society which evaluates what is happening, not what ought to happen.

The paper is divided into four parts. Part one is an overview of the theoretical concepts of civil society and democratization. Part two looks at the role of the Christian church in Kenyan and Ugandan democratization processes. It is argued that since the 1980s, Christian churches in Kenya, unlike those in Uganda have been 'at the Centre' of pressures for democratization. Part three, discusses the contribution of NGOs in both Kenya and Uganda at two levels: first, as they seek to pluralize the civil society environment, they pursue actions that may enable them and other interest groups in society to operate freely and unfettered by the state, second, the NGO

⁵⁴Y. ARSANO, *Negotiations for a Nile-Cooperative Framework Agreement*, in *ISS Occasional Paper 222*, (January 2011), p. 5.
66 Nile Basin Initiative, http://www.nilebasin.org/newsite/index.php?option=com_content&view=article&id=70%3Aburundi-signs-the-nile-cooperative-framework-agreement-pdf&catid=40%3Alatest-news&Itemid=84&lang=en (accessed July 17, 2011).

empowering role of grassroots communities where they pursue their development activities. Part four is an appraisal of the contradictory nature of civil society, the church and NGOs in the democratization processes in Kenya and Uganda.

Civil society is usually defined in relation to the state; that is, the way society is organized outside the state. For Bayart (1986), civil society is society Civil Society and the Democratization processes in Kenya and Uganda: in its relations to the state, in so far as it is in confrontation with the state. It consists of a range of organizations of self-interests, which are protected by various mechanisms such as an independent judiciary and a free press, from interference by the state. According to Chazan (1992:282), the nurturing of civil society is widely perceived as the most effective means of controlling repeated abuses of state power, holding rulers accountable to their citizens and establishing the foundations of durable democracy. In this regard, for instance, the impetus for the late democratic transitions in Africa has been traced to the growth and political activity of civil society across the continent (Ndegwa, 1996:2). Among the most vocal opponents of authoritarian regimes in African countries have been voluntary and associational groups such as churches, organized labor, professional associations and grassroots movements.

However, the notion of generic civil society as being uniformly progressive in challenging the authoritarian African state and in advancing democratization may not be accurate. As Ndegwa (1996:6) argues, 'there is nothing in civil society organizations that makes them opponents of authoritarianism and proponents of democracy'. There is no theological virtue in the notion of civil society. Civil society may advance without a democratic ideal. In Africa, where norms of hierarchy and authority are highly pronounced, civil society may be a significant reservoir of authoritarianism and anti-democratic values. Civil society could obstruct the process of

democratization. The recognition of the various tendencies in civil society and their predisposing factors is crucial to the analysis of the patterns of interaction between state and society (Abutudu, 1995:5).⁵⁵

The definition that separates civil society from the state leads to a flawed conception of civil society. As Kasfir (1998a:1-3) observes, the wholesale belief in civil society as the basis of democratic order, leads to a distortion in the analysis of the relations of state and society and the possibilities of democracy is exaggerated. Civil society cannot be sharply divided from society in general. Neither can the state be separated from civil society. The proponents of civil society wrongly conceptualize who the organizational actors are playing significant roles in securing a new public sphere, or questions whether the civil society actors who are supposed to bring democracy can actually do so.

An alternative conception of civil society could be for one to come up with an agenda, the definition of a common project in order to, in the context of authoritarian regimes, effect the transition to democracy. This project might be seen to mark its transition from civil society 'in itself to civil society for 'itself (Abutudu, 1995:6). The understanding of the interconnectedness between civil society and the state in this regard is crucial. Civil society reflects both divisions in the larger society and the needs and demands of state actors. This may limit civil society organizations' capacity to cause authoritarian states to become more democratic. As Kasfir

(1998b:125) contends, patronage-based political economies like those in Africa produce incentives for civil society actors to organize platforms for gaining power rather than creating reform. Habituated by many years of extensive interference, and little effective capacity to

⁵⁵ Author's interview with Undersecretary of the Ministry of Water Resources and Irrigation and chief negotiator on CFA, Juba, August 17, 2011. Author's interview with Officials at the Ministry of Energy, Juba, August 18, 2011.

implement policies, state officials both threaten and infiltrate organizations in order to deflect initiatives for reform.⁵⁶

The expectation of NGOs and other civil society organizations such as self-help and ethnic associations as agents of democratization remains contentious. Given the diversity among NGOs' positioning with regard to the democratization movement, the blanket civil-society - political liberalization thesis requires revision. Democratization is basically a process of establishing, strengthening or extending the principles, mechanisms and institutions that define a democratic order. According to Ndegwa (1996:7), organizations in civil society may be supportive of democratization. This is premised on two central factors. First, when they articulate democratic values as well as pursue actions to challenge non-democratic regimes and second, the success of civil society in forcing political concessions in Africa relates to the availability of opportunity to mobilize, agitate and bargain with the state from a position of strength.

The transposing of civil society and democratization still remains problematic. As Kasfir (1998b: 142-5) points out, with notable exceptions, the African organizations specified by conventional civil society notions are new, lack social roots, have objectives unrelated to on-going political conflicts and are heavily financed by outsiders. He contends that scholars and donors need to rethink the assumptions on which they expect civil society to contribute to democracy. In the process, they ought to pay at least as much attention to political institutions as to civil society. Any conception of civil society and its contributions to the democratization processes in Africa must take note of the interconnectedness between civil society and the state as well its limitations in causing authoritarian states to become more democratic. It is in this light that we examine how

⁵⁶73 Interview with Pagan Amum..., cit.

the Christian church, NGOs and other civil society organizations in Kenya and Uganda have been involved in the process of democratization.⁵⁷

3.2 The Church and the Democratization Process in East Africa

The Christian churches have been involved in Kenyan and Ugandan democratization processes for some time. It is argued that over the decades Christian churches in Kenya, unlike Uganda, have been 'at the center of the pressures for democratization. On the other hand, over this period churches Uganda have rarely been spearheads of democratic change but instead have often mediated state power and the general population. This part seeks to explain the differing role of the respective churches in Kenya and Ugandan the democratization process. This is discussed at three levels: first, the conditions that give the church the opportunity to mobilize and secondly, the contributions of the church in the struggle for democracy and third, the limitations of the church in these processes.

3.3 The Church and the Democratization Process in Kenya

First, the opportunity of the church to engage in the process of democratization in Kenya has been created by its organizational resources, the deteriorating socio-economic conditions and the emergence of an oppressive one party state in post-colonial Kenya. In the process of centralization, the church remained among the few institutions that managed to keep a degree of corporate independence from the state. It is this organizational resource that was put to critical use in the struggle against oppression in the 1980sand 90s. Originating from the colonial period, the dense network of structures, bodies and organizations of the church in virtually every social and economic sphere, gave it an organizational distinctiveness (Saber-Friedman, 1997:26). In

⁵⁷J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem*.

multi-ethnic and differentiated societies like Kenya, the church affords the means for a broad dissemination of its moral doctrines and social political views. This enables them to contribute to the socialization of African citizens and thus affecting the prospects for democratic participation. In the period of change, the established Christian churches and their organizations as expressed in the National Council of Churches of Kenya (NCCCK) and Evangelical Fellowship of Kenya (EFK), demonstrated their willingness to reach out to the disenfranchised and those on the margins of society. As a space of integration and construction of solidarities and because of its ability to combine both sacred and profane resources, the church in Kenya came to enjoy a specific type of power. The power to deliver and the power to tame and define reality, it is from this position that its most important ministers spoke out (Saber-Friedman, 1997:30). Second, the deteriorating socio-economic conditions gave the church even more legitimacy as it expanded the social and economic projects that it had instituted since the colonial period.

The third opportunity for the church arose as a result of the rise of an oppressive one party system in Kenya. When civil society is repressed by a state, churches remain 'zones of freedom' and tend to take up the political functions of the repressed organizations. As a result, due to its popular credibility, the church became one of the only remaining available tools of expression of dissatisfaction and the urge for change in the country. The church advocacy role took mainly the form of confrontation with the state.⁵⁸

The church contributed to establishment of pluralism in a number of ways. First, it was central in generating and sustaining a public discourse on democracy and change in Kenya (Nggunyi, 1995). It criticized excesses in the exercise of state power. It protested against change in electoral law, which removed the secret ballot replacing it with a queuing system, denounced brutal evictions

⁵⁸J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem*.

of squatters in Nairobi and the state-engineered ethnic clashes in the Rift valley, which had turned it into the 'unhappy valley' (Berman and Lonsdale, 1992). The discourse that the church forced upon the state created an atmosphere conducive to change by accelerating processes aimed at transformation that were already underway. This discourse was informed by the conviction that the question of power and oppression was not a preserve of government and politicians. This was perhaps summed up more aptly by the late Bishop Muge. While addressing the Church of the Province of Kenya (CPK) Youth Organization, Muge warned that 'the church couldn't compromise theological issues with secular or temporal matters'. The church was urged to protest 'when God-given rights and liberties are violated. The church had a special duty to 'give voice to the voiceless' (Throup, 1995:151). Rev. B. Njoroge Kariuki went a step further. There: 'The church has a duty beyond the rescue of victims of oppression. It must try to destroy the cause of oppression. The church will have to enter the political arena to do this' (Saber-Friedman, 1997:36). In a sense therefore, the clergymen were concerned that civil liberties had been curtailed and saw it as their duty to contribute to bringing about change.

The church is, however, confronted with a number of contradictions and limitations in the realization of a democratic order. Much of the church based opposition to the Moi regime in Kenya has a distinct Luo and Kikuyu ethnic basis, while many of the churches giving strong support to the government come from the same ethnic groups, particularly Kalenjin and Kamba that upheld the regime. The EFK represents a feeble Luo-Kalenjin alliance with Kalenjin faction assuming a preponderant position. The NCCCK is a multi-ethnic institution with strong Luo, Kikuyu, Embu and Meru presence (Ngunyi 1995:126). Political patronage or lack of it has also accounted for the different political stances on the part of the leadership of different churches. Those institutions pursuing advocacy politics are also those excluded from political

patronage under Moi, while inclusion in state patronage networks largely accounts for the position taken by the 'loyalist' institutions in defense of their game. Ethnic patronage dealt a blow to the emerging democratic movement while the church contributed tremendously to democratization processing Kenya; there are limitations in that much of the political stances taken during the process of political liberalization were largely a function of ethnicity and political patronage. The social bases of most of the 'activist' institutions are ethnic groups with strong political traditions but who had been excluded from power, particularly the Luo, Luhya and the Kikuyu, who were progressively being purged out of the centres of power. For civil society organizations to be seen as strengthening democracy, a notion of civil society which takes into consideration the terrain of the discourse is required. For most African societies, ethnicity and political patronage should be taken into serious consideration in civil society discourse.⁵⁹

3.4 The Church and the Democratization Process in Uganda

The church in Uganda unlike in Kenya has rarely spearheaded the struggle for democratization but instead most often mediated state power in the general population. The specific historical context and the different nature of the terrain on which the central political and social conflicts have been fought in the two countries inform the differences. In this part we discuss this at three levels. First, we examine the determinants of church involvement in Ugandan socio-political conflict. Second, we analyze there stricted/stunted nature of church discourse on democracy and human rights in Uganda and third, examine the tendency for the church to identify itself with existing holders of power.

⁵⁹J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem*.

The identification of the Anglican Church as a church of the establishment and the Catholic Church as anti-establishment has had profound implications for the involvement of the church in the struggle for democratization in Uganda. The animosity between the two Christian churches has had disastrous results for the democratization process as it has precluded the presentation of any form of united front on issues of civil liberties and human rights (Kiwanuka, 1961). The historical origins of this animosity can be traced to the colonial period. The Catholic Church lost the battle for political power to the Anglican Church in the 1890s. Since then, the Catholic Church concentrated on building up a 'spiritual kingdom', parallel to the state but not in direct competition with it, loyally cooperating with the colonial government in a more or less apolitical way (Ward, 1995:72).

The centrality of the Catholic Church in the formation of the opposition Democratic Party in mid 1950s only exacerbated the polarization (Kassimir, 1998:57). This compromised the autonomy that civil society organizations such as the church are supposed to have by representing a section of the population. The position of the Anglican Church could not help matters as there appeared divisionism in its internal organizational structures as well based on ethnicity and regionalism (Mudola, 1993). The nature of church state interaction and the articulation of the democratic question by the church have been further compounded by unresolved regional and ethnic questions in the country. These divisions have obstructed the capacity of the Church to advance the collective will of the society on issues of democracy during colonialism and especially towards independence; the ethnic question came to dominate the concerns of the internal politics of the Anglican Church. As Ward (1995:73-75) notes, if the Baganda were preoccupied with fears of losing their status and integrity as a nation in an independent Uganda, other ethnic

groups were equally apprehensive about renewed domination by Buganda. The election of the first Anglican African Bishop in 1965, Bishop Erika Sabiffi, a non-Muganda, caused uproar.

Such ethnic chauvinism could not help to bring the church at the center of broad issues of democracy and democratization.

The Catholic Church under the leadership of Bishop Kiwanuka emphasised the need for respect for human rights, the equality of the people, a spirit of patriotism, among others (Waliggo, ⁶⁰1995:113). While this was positive in comparison to the practices of the Anglican Church, it could not be realized in practical terms. The proposition of individual Bishop cannot be a substitute to institutional capacities. The politics of the organizations contributes to their potential for political influence. The Catholic Church did not escape the problems of the ethnic question. The combination of unresolved regional question and the animosity between the Catholic and Anglican Churches and the quasi-establishment stance of the Anglican Church, have precluded the deployment of organizational capacities of the Christian church in Uganda to mount an effective challenge to authoritarianism in the country.

The discourse on democracy and human rights by the church has been rather stunted both for historical and contextual reasons. The erosion of human rights and civil liberties in post-colonial Uganda, in general, was met with silence from the church, apart from a few protests, (Pirouet, 1995:249), Typical comments that were made did not directly concern the internal politics of Uganda. On 16 January 1967, for instance, the government ordered ten Roman Catholic missionaries to leave the country. Archbishop Emmanuel Nsubuga issued a statement in protest, 'Catholics in Uganda and elsewhere are deeply perturbed by the government's decision this week to expel 10 priests who were accused of helping and sheltering Sudanese rebel sand of involving

⁶⁰J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem*.

Uganda in danger of a war with the Sudan' (Mudoola1993:39). Internally, however, the Church remained silent as hundreds of political figures were detained without trial in the 1960s.

At the height of human rights abuse in the 1970s during Idi Amin's regime, a unity against oppression was forged between Buganda and the rest of Uganda, between Catholics and Protestants, and within the church itself. However, in spite of this, weaknesses in the church of Uganda, the religious rivalries between Catholics and Protestants, inhibited an effective response. Perhaps the context, particularly the character of Idi Amin's regime, conditioned any response. As Ward (1995:82) correctly observes, to protest was to risk some definable punishment which could be calculated in advance. Rather it was to risk unspecified ills involving loss of property, torture, imprisonment and death, not to mention reprisals on one's family'. Anglican Archbishop, Junan Luwum, who was murdered and several Bishops who had to flee to exile during Amin's regime exemplify the fate of any protest. Survival became paramount to the struggle for human rights. Perhaps the major failing of the Christian church in the democratization process in Uganda has been the maintenance of the quasi-establishment stance of the Anglican Church on one hand and the ambiguity of the Catholic Church on the question of democracy, on the other. The Protestant Church has viewed itself as the church of the establishment. Indeed, all past Presidents apart from Idi Amin have been Protestants. This precludes any vigorous condemnation or denunciation of the erosion of human rights and democratization on the part of the Catholic Church.

The ambiguity in the Catholic Church is exemplified by the wavering positions of the Church leadership on the question of democracy. In 1986, for instance, the Catholic bishops declared that 'a multi-party system of government is an expression of fundamental freedom of assembly and association guaranteed by our National Constitution'. Three years later they had fallen in-line

with the state position on the democratization process and return of multi-party politics. They collectively stated that 'As to the concrete question of what form government Uganda should adopt, we must state clearly that the church does not advocate one form'.⁶¹

Patronage and corruption, as in the case of Kenya, has compounded the situation. Patronage based political economies like that of Uganda produce incentives for civil society actors to organize platforms for gaining power rather than creating reform. State officials both threaten and infiltrate organizations in order to deflect initiatives for reform. The increasingly dwindling sources of donor funds have resulted in Church leaders and even Muslim leaders to succumb to patronage from the state. For instance, all religious leaders, Christian and Muslim have received donations of four-wheel drive vehicles from the National Resistance Movement (NRM) government through President Yoweri Museveni. As a result, the Church in Uganda has more often than not blessed the wishes of the power holders. This is clearly illustrated by the stand of the church on the so-called no-party system of governance. As Kassimir (1998:61) correctly notes: Clearly the current political system under the NRM falls short of the definition of democracy commonly accepted by civil society approaches, with critics pointing not only to the unfair electoral advantages of the NRM in a no-party system, but also to restrictions on associational rights in civil society itself. In spite of this, the church has largely endorsed these infringements on inalienable fundamental human rights at the altar of patronage from the state.⁵³

The elevation of the NRM, which is in reality a political party, to a 'system' and then subjecting the population to a referendum, on 'political systems' in June 2000, was perhaps one of the most open abuse of civil rights in Uganda. Yet the church, which should have acted as the voice of the voiceless, has largely endorsed the process. The Uganda Joint Christian Council (UJCC), in a

⁶¹ 76 « Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem.* an Tribune», April 18, 2007. 77 *Ibidem.*

joint pastoral letter of 24 May 1999, was very supportive of the Referendum. It had this to say: 'The referendum on political systems scheduled to be held in the year 2000 offers to the people of Uganda the opportunity to make a choice of the political system that best promotes the interests of the country.

Six weeks later, on 2 July 1999, a law to regulate the process, The Referendum Act (1999) was fraudulently passed in parliament without a quorum. Yet three months later, the same joint council was urging people, using the usual state arguments, to participate in the exercise essentially aimed at entrenching a one party monolithic state. The UJCC recommended that: 'The referendum is a constitutional issue. So it is being recommended that in the spirit of constitutionalism all citizens should participate'.⁵⁴ This stand of the church on democratization in Uganda is in stark contrast to that of the Kenyan churches that in the 1980s and 1990s took upon themselves the role of advocating for democratization effectively as they command massive respect. In comparative terms, the churches in Kenya and Uganda have played contrasting roles in the democratization processes of the respective countries. Due to a combination of unresolved regional questions, civil conflict and submission to patronage, the Ugandan church has been less effective in the process. On the other hand, although the emergence of different political stances on the part of church leadership during the process of political liberalization in Kenya was largely a function of ethnicity and political patronage as ⁶²well, many members of the clergy were concerned that civil liberties had been curtailed and freedom of expression restricted and therefore they became champions of the struggle to get rid of these unwarranted restrictions in Kenya's body politic. To date, the church is active in there form process to get rid of draconian clauses from the constitution.

⁶²J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50. 76 «Sudan Tribune», April 18, 2007. 77 *Ibidem*.

3.5 The NGOs and the Democratization Process in East Africa

In this part, we discuss the contribution of NGOs in East Africa at two levels: one, as NGOs pluralize the civil society environment, they pursue actions that may enable them and other interest groups in society to operate freely and unfettered by the state. First, the NGO empowering role of grassroots communities where they pursue their development activities, these processes, for both countries, are not problem free and secondly, NGOs Civil Society and the Democratization processes in Kenya and Uganda: constitute a network of resourceful organizations that are growing increasingly autonomous of the state. They are, therefore, unlikely to be left alone.

Second, NGOs have the potential to change state-society relations. The ensuring 'political jealousy' has led both the governments of Kenya and Uganda to attempt to control NGOs and their resources through legislation in the name of preserving national sovereignty NGOs and the Democratization Process in Kenya. The Kenyan NGOs have played a contributory role in the democratization process with some successes. However, in this process they have invited hostility from the state as, at the same time, they have confronted some limitations. The NGOs involvement in the process has been analyzed as a case of availability of opportunity, NGO collective organization and alliance with international organizations.

The opportunity for NGOs in Kenya to influence democratic change has arisen out of the weakness of opposition parties. As Ndegwa observes, 'given the weak and divided opposition parties, progressive organizations such as churches and NGOs involved in development have an opportunity to pursue an empowerment agenda within their sphere of activities' (Ndegwa, 1996:9). Historically as well, civic associations have functioned as a nucleus for people's mobilization against the state in Africa,⁵⁵ this historical experience gives NGOs an opportunity

to participate effectively in the process of democratization and strengthening of civil society. The authoritarian character of the post-colonial Kenyan state and its general assault on civil society calls for a focused and systematic approach which the NGOs and church provided, particularly in the 1990s. The activities of NGOs were not interfered with by the state so long as they remained 'developmental' and in general support of the statist development list ideology of *Harambee* (Kanyinga, 1995). This changed when; the state faced increasingly hard economic times towards the end of the 1980s. In patronage based economies such as Kenya's, the increasing flow of development aid to NGOs instead of the state resulted in political 'jealousy' on the part of the state. This is because the state's diminishing development resources would undermine its capacity for political patronage and legitimization (Ndegwa, 1996:36). The state is often uneasy when confronted with a threat to its hegemony. It is within this context that the state sought to control the NGOs through legislation, by enacting the NGO Coordination Act, 1990. The Act resulted in the activation of the NGOs and other civil society organizations. The NGOs as a result, became one of the various actors opposing the single-party government on diverse issues such as electoral laws, human rights and lent further momentum to the democratization movement unfolding in the 1990s on Constitutional Reform.⁶³

The challenge of the legislation became the focal point of NGO-state relations. It resulted in NGOs' success in blocking the obnoxious articles. As Ndegwa (1996:110-115) correctly observes, 'the eventual success of the NGO challenge itself had important implications for the political reform movement: it allowed NGOs to operate freely and independently from state interference - thus increasing the freedom of actors in civil society'. This act provided the evidence that civil society actors opposing a repressive state can have important bearing on

⁶³ Johnson, D.H. (2006), *The Root Cause of Sudan's Civil Wars*, Updated to the Peace Agreement, updated 3rd impression, The International African Institute, Oxford.

political reform process. In the Kenyan context, both the Green Belt Movement and the *Undugu* Society of Kenya show that grassroots empowerment is an important outgrowth of fairly mundane development activities that require no explicit commitment by the NGO to oppose the state. As the NGOs try to empower the people, there is a tendency to come in conflict with the state.⁶⁴

The NGOs acting as agents of democratization in Kenya has not been problem free. Contrary to civil society theorizing, NGOs are not predisposed to opposing single-party dictatorship. In what he calls exposing the 'two faces' of civil society, NGOs have not always been opposed to the state, the *Undugu* Society of Kenya being pro-government and the Green Belt Movement being very critical of government (Ndegwa, 1996:110). The NGOs contribution has been further limited by the organizing principle of ethnicity and patronage. The general observation that patron age based political economies produce incentives for civil society actors' to organize platforms for gaining power rather creating reform applies in Kenya. Kanyinga (1995:118) argues that the role of NGOs has probably strengthened rather than weakened patronage. To him, most of Kenyan NGOs have tended to promote 'development' in the narrow sense rather than ⁶⁵democratization and have systematically sought to 'fit in' with the socio-political structures, which define and reproduce it. NGOs have tended to avoid working through groups that are involved in political change or controversy. As a result, their contribution to the pluralizing of civil society is a deeply ambivalent one.

The alliance of NGOs with other oppositional forces in civil society in late 1980s and early 1990s, though commendable, did not amount to much. The newly legalized opposition parties'

⁶⁴ Barnes, C. 2012. "Weaving the Web: Civil-Society Roles in Working with Conflict and Building Peace." In Paul van Tongeren, et al., eds., *People Building Peace II, Successful Stories of Civil Society*, 7- 24. Boulder, CO: Lynne Rienner Publishers.

⁶⁵ J. GLASSMAN, *Nile Water*, «Journal of African History», vol. 33, iss. I, 1999, pp. 149-50.

⁷⁶ «Sudan Tribune», April 18, 2007.

⁷⁷ *Ibidem*.

embrace of NGOs cause amounted to little in terms of sustainability of the democratic struggle. As the opposition parties fragmented, the frictions came to be reflected in the entire society.

The failure of the opposition parties to capture state power dealt a devastating blow to the democracy movement. Like the divisions that emerged in the church, the NGO community came to reflect the different political stances in the broader society. The experience of the church as that of NGOs implies that non-state organizational actor in the African civil society maybe capable of no more than modest, tentative and often reversible contribute-Civil Society and the Democratization processes in Kenya and Uganda: contributions to democratization. The contribution of NGOs to the democratization in Kenya is commendable despite the above contradictions and weaknesses.

3.6 NGOs and the Democratization Process in Uganda

The NGO phenomenon, in its contemporary sense, is a recent phenomenon in Uganda's socio-political development. Apart from the church, the rise of NGOs involved in the discourse on democratization, political and civil liberties in Uganda are a recent occurrence. In thirty years of Uganda's independence, the country witnessed seemingly endless terrorism and human rights abuses. Several regimes in succession denied the Ugandan people their fundamental liberties. Freedom of speech was suffocated; lives lost, arbitrary arrests and detentions were the order of the day. Though there was presence of a multi-party system from 1981-85, the political party in power denied the existence and operation of any form of autonomous organizations within civil society not allied to it. Lack of these facets in society led to the rise of NGOs concerned with political and civil liberties (Okuku, 1997:82). Second, the rise NGOs, as in Kenya, is a result of the increased funding that changes in the policies of donor countries made available. They also

sprouted on the crest waves of international sympathy that came Uganda's way after the fall of the regimes of Idi Amin and Milton Obote II that were notorious for human rights abuses. From just a few in the 1980s they turned into a massive movement in the 1990s.

In civil society literature, it has been suggested that NGOs have a unique position in society in that it can reach the people, educate and empower them hence enabling them to assert themselves and struggle for the democratization of the socio-political space. By looking at the practices of the civil liberties NGOs, their organizational capacities and how they relate to the Ugandan State, the capacities of selected human rights NGOs to the extension of civil liberties are analyzed, contributing to the democratization process. These include the Uganda Human Rights Activists (UHRA), Foundation for Human Rights Initiatives (FHRI) and Action for Development (ACFODE) among others. These organizations have tried to translate the civil/political rights into apolitical culture with very limited success.

All the three organizations were formed in the 1980s and 1990s reflecting the growing concern with human rights issues as part of the democracy question. In organizational terms, the UHRA is faced with internal power wrangles that led to the break-away of FHRI. Both UHRA and FHRI, have personal rule by the founder leaders, suffer from donor dependence, have limited spread countrywide and there is general hostility from the State towards their activities. This has led to their limited capacity to empower the population. ACFODE on the other hand, although focused on empowerment of women, has been limited to urban areas (Okuku, 1997:87). This has been worsened by their focus on micro-elements rather than upon macro-dimensions of the economy, governance and social services. They have emphasized projects rather than programmes,⁵⁸ this has resulted in their rather dismal contribution to the democratization process.

A study on Ugandan NGOs, discounts the automatic association often made between liberalization and democratization (Dicklitch, 1998). NGOs as important actors within civil society are allowed to function as long as they 'fit' within the liberalization agenda, fulfilling a gap-filling role, particularly of poverty alleviation (John de Connick, 1992) rather than empowerment or advocacy. In this regard, more telling about their limited capacity to contribute meaningfully to the democratization process is their practices. NGOs have been compelled to exercise a significant amount of self-censorship to avoid confrontations with government. Unlike NGOs in Kenya which were central on attacks on state restrictions, Ugandan NGOs have⁶⁶ avoided 'controversial' issues such as army abuses and the political restrictions associated with the 'movement' system (Human Rights Watch, Uganda, 1999).

NGOs in Uganda are not supposed to be bastions of democracy as this role is assumed to be taken care of by the increasingly statist Local Councils (LCs). The state has appropriated the themes of the democracy question including human rights, good governance and accountability often by setting up organizations for their fulfillment. For instance, the Uganda Human Rights Commission (UHRC) investigates human rights abuses and the Inspectorate of Government (IGG) ensures accountability in public service.

The findings of these organizations are not pushed to the logical conclusion. The Ugandan NGOs are strictly controlled by the state. As in Kenya, the state exercises significant control over NGO activities through the NGO Registration Board Statute that stipulates conditions for registration and deregistration. The NGO board is filled with members of police and secret services. The regime does not hesitate to clamp down on vocal critics such as political parties and the regime

⁶⁶J. GLASSMAN, *Nile Water*, «*Journal of African History*», vol. 33, iss. I, 1999, pp. 149-50. ⁷⁶ «Sudan Tribune», April 18, 2007. ⁷⁷ *Ibidem*.

(Dicklitch, 1998:106). According to Sheila Kawamara, Coordinator of the Uganda Women Network (UWONET), as quoted in Human Rights Watch-Uganda Report, however: 'They (Government) often remind us of our registration, which requires us to be non-political, non-partisan, non-everything'. The government has interfered in civil society activities without any critical response from the NGOs, the church and other civil organizations. Concerned with the violence in the North and the insistence by the NIZM government to resolve the conflict violently, the church and NGOs in March 1998 sponsored a Kampala peaceful procession to urge the government to negotiate with rebels. The state cancelled it on the apparent grounds that the peaceful procession could be turned into a political event. As HRW Uganda, observes, '... society in Uganda continues to be effectively prevented from addressing some of the most pressing human rights issues in Uganda, namely the political restrictions which operate under the movement system.'⁶⁷

Apart from this open control, the state has responded to NGO activism in ways that have been suggested by Fowler.⁶⁸ Members of their regime can create their own NGOs. In Uganda, the members of the regime have not only created their own organizations, but the state has created bodies to act as 'NGOs'! In 1993, the government, for instance, established the National Association of Women's Organizations' in Uganda (NAWOU), which is facilitated by the Ministry of Gender and Development. The state also has attempted to form an all-encompassing NGO forum, the National Council of Voluntary Social Services.⁶⁹ This distorts the contributions the NGOs could make to the democratization process in the Uganda.

⁶⁷ H.F. 2012. "Civil Society and Global Governance." Contextual Paper for High Level Panel on UN-Civil Society, New York.

⁶⁸ Eviota, D. 2005. "Grassroots and South-South Cooperation: Bantay Cease-Fire in the Philippines." In P. van Tongeren et al., eds., *People Building Peace II, Successful Stories of Civil Society*, 388-93. Boulder CO: Lynne Rienner Publishers.

⁶⁹ International Crisis Group (ICG) (2008), *Sudan's Comprehensive Peace Agreement: Beyond the Crisis*, ICG, Nairobi and Brussels.

The result has been the emergence of an NGO sector that is apolitical and dependent on foreign donors with lack of coordination of its own autonomous activities. Such a sector is currently incapable of bringing pressure to bear on the state and keeping it accountable. However, as Debiel and Sticht (2005) notes 'the fact that NGOs exist and that they are engaged in some advocacy and empowerment projects is, however, a positive sign'. On the whole the NGOs contribution to the democratization process in Uganda has not been salutary in comparison to Kenyan NGOs.⁷⁰ NGOs face obstructions from the State and they are in themselves very fragmented and donor dependent.

According De Waal (2009a), the member states of EAC include Burundi, Kenya, Rwanda, Tanzania and Uganda, they have scaled up their regional integration efforts the primary and strategic goal is to convert deeper economic, social, cultural and political integration into a political union of the EAC. CUTS with support from Deutsche Gesellschaft Technische Zusammenarbeit (GTZ) implemented a two-year long project in the five countries to create capacities of the civil society for a better understanding of both challenges and opportunities of trade integration.⁷¹ Regional integration requires political will and commitment of the leaders of the EAC member states to relinquish parts of their sovereign decision making powers to a regional authority with a view to achieve the broader benefit from the economies of scale that come with larger production centres and markets. Creation of a single economic space requires them to harmonize national economic and social policies, create infrastructure and facilitate trade keeping regional development in view and bring down administrative and transaction costs.

⁷⁰ Debiel, T., and M. Sticht. 2005. "Towards a New Profile? Development, Humanitarian and Conflict- Resolution NGOs in the Age of Globalization." Institute for Development and Peace INEF, Report no. 79, Duisburg.

⁷¹ De Waal, A. (2009a), "Mission without end? Peacekeeping in the African political marketplace", *International Affairs*, Vol. 85 No.1, pp.99-113.

When neighboring countries benefit from each other, peer pressure from the beneficiary citizens creates soft policy coordination.

African countries with armed conflicts, and there are many throughout the continent, vary in scale and magnitude. They can be categorized in terms of their scale and in terms of the identities and objectives of the conflicting parties. They are a complex phenomenon with their own internal dynamics and are ever evolving. They vary from the large armed civil wars – in which armed groups are fighting to overthrow the state, to small inter-communal/ethnic groups intermittently fighting over land/cattle or water resources.⁷² Whatever the type or scale of the armed conflict, civil society is always deeply involved – either directly in the conflict/war or as affected victim of the conflict. In most armed conflicts, only a section of civil society is mobilized to directly take part in the conflict and often only a small part of the country's civil society is affected by the conflict. And most of these conflicts take place in remote (from the capital) rural areas. However, in large scale civil wars where the state has either been weakened to the extent of becoming one of the many parties to the conflict or it has completely collapsed, in these situation almost the entire civil society is affected by the conflict or civil war. Examples of these situations are Somalia, DRC, and Congo Brazzaville etc.

⁷² Crocker, C. A., F.O. Hampson, and P. Aall. 2001. *Turbulent Peace. The Challenges of Managing International Conflict*. Washington, DC: United States Institute of Peace Press.

CHAPTER FOUR

CRITICAL ANALYSIS

4.0: Introduction

This chapter critically analyses the role of civil society in peace building of post conflict South Sudan after signing of CPA.

4.1: Hypothesis Testing

4.1.1 Civil Society Plays a Role in Service Delivery to Enhance Peace

The study established that civil society in South Sudan has an increasing capacity developed through wartime and Diaspora experience, steady development in the CPA period and engagement with a growing range of donors. In particular, it is highly concentrated among the young, the educated and Equatorians. This said, it remains very weak relative to the government and is the subject of some distrust from the state.

It was also noted in the study that service delivery was only effective for peace building when it creates entry points for other functions⁷³. During war and armed conflict, aid projects often take place in conflict-affected areas. The systematic use of such projects for additional protection purposes can enhance their peace building effectiveness. After large-scale violence ends or during periods of low levels of violence, aid projects can be very effective in creating common platforms of cooperation and dialogue for adversarial groups.

⁷³Accord. 2002. "Owning the Process: Public Participation in Peace Making." *Accord Series*, Reconciliation Resources, London. Almond, G. A., and G.B.J. Powell. 1988. *Comparative Politics Today. A World View*. Glenview, IL: Scott, Foresman/Little, Brown College Division.

The research findings indicate that the civil society played an important and effective role in peace building in South Sudan during all stages of conflict, and has contributed positively to the peace building process. However, a careful look at the engagement of civil society – compared to the involvement of other actors – reveals that the role played by civil society is not necessarily decisive in building peace, but rather supportive in most instances⁷⁴. The central impetus for peace building comes mainly from political actors, and above all, from the conflict parties themselves. These actors are often reinforced by strong regional actors. Nevertheless, the supportive role played by the civil society can make a difference when performed in an effective way at the optimal time. Civil society groups in South Sudan have contributed effectively to the reduction of violence, the negotiation of settlements, and the facilitation of peace after signing of the CPA.

Service delivery as such is seen as an economic task of the state, the market or the third sector. However, service delivery is connected to civil society, as many of its actors have taken up service delivery parallel or alternatively to the state or the market. Service delivery, however, may be seen as a civil society function when it is directly linked to other civil society functions or objectives. Without this connection to other civil society functions service delivery has mainly economic or social objectives. Service delivery can only be important for civil society peace building where donors explicitly aim to contribute to local peace capacities and try to find entry points for peace building through service provision. However this is not seen as a function on its own, but only as an entry point for other functions. For example, a development project can

⁷⁴Anderson, M. B. 2011. *Do No Harm. How Aid Can Support Peace or War*. Boulder, CO: Lynne Rienner.

analyze the conflicting local stakeholders and try to involve them through project user committees as a means to facilitate dialogue between adversary groups.

This can be done both at the local as well as on the sector level. Here service delivery is an entry point for the conflict sensitive social cohesion function of civil society peace building.

4.1.2 Civil Society Plays a Role of Advocacy and Public Communication to Enhance Peace

The study revealed that civil society has an important task to articulate interests- especially of marginalized groups—and to create channels of communication to bring them to the public agenda, thus raising public awareness and debating them. In development cooperation this Habermasian function is mainly described as advocacy. Another striking finding of this project indicates that when preformed, the functions of protection, monitoring, advocacy and facilitation were often quite effective.⁷⁵ Conversely, efforts aimed at socialization and social cohesion generally had a very low level of effectiveness in terms of reducing violence, contributing to agreements and sustaining peace. This was due to the way most initiatives within these functions were conducted, and the way they were impacted by certain contextual factors.

The study established that the effectiveness of advocacy initiatives increases when reinforced by knowledge of how to organize effective campaigns, and additionally accompanied by monitoring initiatives and targeted media strategies. Drawing the attention of the international community through collaboration with the media and international networks can additionally enhance overall effectiveness of civil society advocacy.

⁷⁵Anderson, M. B., L. Olson, and K. Doughty. 2003. *Confronting War: Critical Lessons for Peace Practitioners*. Cambridge, MA: The Collaborative for Development Action.

Advocacy is not only highly relevant for peace building, but was also conducted in many instances by civil society with a high level of effectiveness. Next to advocacy for protection-related issues, civil society groups advocated for the inclusion of relevant issues into peace agreements, such as land reform, human rights provisions, or legal issues aimed at the recognition or implementation of rights of marginalized groups. Civil society also advocated for issues related to the implementation of peace agreements or the establishment of truth and reconciliation commissions. Women's groups are often successful in bringing minority and gender issues onto the agenda. In general, if targeted advocacy campaigns are combined with monitoring, media attention, and the support of international networks, their effectiveness is at its highest. An example can be seen with advocacy for protection initiatives, when they combine the initiatives of community groups, local NGOs or traditional leaders.

The most effective form of advocacy, according to the study, is mass mobilization for large-scale change, such as the end of war or authoritarian rule.⁷⁶ Civil society organizations were also in many cases very effective in bringing issues to the negotiation agenda. In South Sudan civil society organizations successfully managed to put important topics onto the negotiation agenda; two thirds of the proposals found their way into the peace agreement. It is of paramount importance to note that the main limiting factors for advocacy are again linked to the shrinking space for civil society to act. Other possible limiting factors include a highly restricted media, the lack of specialized knowledge, or the lack of capacity for managing successful campaigns.

⁷⁶Barnes, C. 2012. "Weaving the Web: Civil-Society Roles in Working with Conflict and Building Peace." In Paul van Tongeren, et al., eds., *People Building Peace II, Successful Stories of Civil Society*, 7-24. Boulder, CO: Lynne Rienner Publishers.

4.1.3 Civil Society Plays a Role of Civil Society Protection of Citizens and Communities

Protection of Citizens and Communities always increase in relevance during armed conflict and war, and decreases in importance in most cases after large-scale violence has ended. The study demonstrated that it is the level of violence that determines the importance of protection, rather than the existence of a peace agreement. In South Sudan, the presence of a UN peacekeeping force led to a frozen conflict situation with no violence.

Interestingly, the theoretical relevance of the function during violent phases of conflict is not matched with the actual level of performed activities. Only in one-third of the cases analyzed was protection conducted, either by local (often traditional and religious) actors, or by professional protection NGOs. When combined with monitoring and advocacy campaigns-some of which were picked up by the media and international networks protection can be effective not only in saving lives, but can also contribute to accelerating peace agreements.

A special form of protection chosen by some civil society actors was related to the issue of migration. When the space for civil society activities diminished in size, activists and civilians tended to leave the country in question. However, many civil society activists continued their work from outside the country, often partnering up with international NGOs or other organizations.⁷⁷

The study also revealed that protection also becomes a key precondition for civil society to act and perform other functions. The case of South Sudan demonstrates this well: even under difficult circumstances during phases of armed conflict, civil society actors could still fulfill many functions. The main limiting factors for protection are hence a high level of violence, but

⁷⁷Carbonnier, G. 2008. "Conflict, Post-war Rebuilding and the Economy. A Critical Review of the Literature." *The War-torn Society Project Occasional Paper* No. 2. Geneva: UNRISD. Cardoso,

also a coercive state with dysfunctional rule of law institutions, and a lack of funding for professional initiatives.

4.2 Civil Society and Peace Building in South Sudan

Civil society in South Sudan has an increasing capacity developed through wartime and Diaspora experience, steady development in the CPA period and engagement with a growing range of donors. In particular, it is highly concentrated among the young, the educated and Equatorians. This said, it remains very weak relative to the government and is the subject of some distrust from the state.

Initiatives that aim to build the capacity of civil society oversight of the government, security forces and the private sector outside of Juba have often been frustrated by a tendency to be co-opted by, or to invite in, the state and county authorities. Examples of this include councils of elders and traditional leaders, community policing forums and Oil Task Forces in Greater Upper Nile.⁷⁸

INGOs are the dominant actors in peace building in South Sudan as well as providing much of the funding for conflict resolution and much of the capacity for humanitarian and development assistance. The number of INGOs increased rapidly through the CPA period, although much current peace building work is done by large multi-mandate aid agencies that have been doing humanitarian work in Sudan/South Sudan for many years. This said, dedicated peace building expertise is low. As one European development professional put it: ‘[post-independence] Peace building is up there with gender and HIV; everyone talks about mainstreaming it, but no one

⁷⁸H.F. 2012. “Civil Society and Global Governance.” Contextual Paper for High Level Panel on UN-Civil Society, New York.

really knows what it is and how it is done.’ Unlike humanitarian assistance, peace building INGOs and staff are heavily concentrated in Juba with very few senior (which often means foreign) staff in even the state capitals. Higher salaries and profiles mean many of the most educated South Sudanese work for INGOs (or the UN) rather than national NGOs or the public service.

National NGOs are vital but often subordinate actors in peace building in their own country.

For most, INGOs are the gatekeepers to international funding. Therefore, it is much easier to attract funds in Juba than in a state capital let alone rural areas. South Sudanese civil society is very unequally distributed, being concentrated in Juba, large towns and the Equatorians. This reflects who in South Sudan is educated (in English) and exposed to civil society activism: urban elites and primarily Equatorians who were displaced to Kenya and Uganda. Civil society is thus reasonably developed in towns like Torit and Yei and largely unrepresentative of the pastoralist majority. Community-based organizations in smaller towns have very limited resources but are often effective at mobilizing the voices of women, disabled people, and other socially and economically excluded groups. Some civil society activists believe they are viewed unsympathetically by the authorities because they are perceived as being staffed by those who went abroad for education rather than staying to fight Khartoum. They also attribute this lack of sympathy to blame for attracting development resources and qualified people away from government, and for being little interested in the rural/pastoralist hinterlands.

Church and religious groups were the key peacemakers during the war, predating the activism of more specialist civil society groups. The (South) Sudan Council of Churches (SCC) remains the main actor, although all the main churches do some form of peace building or conflict resolution work. Examples of such work include the church-state dialogue represented by the

Kejiko II meeting in October 2010, the SCC's "peace mobilisers" project, and the "people to people" peace building initiatives pursued in the 1990s (and proposed for revival now). The Church has strong moral authority over most sectors of South Sudanese society, including the president and ministers, and was widely cited as the most trusted intermediary by respondents. It has clergy at all levels of society, is seen to be relatively autonomous of tribal or religious affiliation and foreign agendas, and is widely sought to facilitate peace conferences at county and states level. Muslim leaders are also sometimes engaged at local level, although they are seen by some as linked to Sudan. Many South Sudanese uphold traditional religious beliefs (often in parallel to Christianity). Examples were given where such "prophets" were powerful agents in mobilizing communities for war. Nevertheless, it is unclear if this influence has ever been harboured for peace building.

Academics and think tanks have quite limited presence in South Sudan, as only one university was open normally in 2011 and many national academics worked abroad. The main peace research and teaching group is the University of Juba Centre for Peace and Development Studies (CPDS), which like NGOs, is largely engaged in internationally financed projects.

4.3 Behavior and Composition of Civil Society

Civil society tends to be a mirror of society. Thus, it is not astonishing that civil society organizations are just as divided as society along power, hierarchy, ethnic or gender lines, and can show moderate, as well as radical, images and behaviors. Civil society organizations are in general led by male leaders from dominant groups within society. Exceptions are women's and minority organizations. In general, women's groups have mainly addressed women and gender issues, along with minority rights and justice issues. In some instances, such groups have also been at the forefront of bridging divides, as in the case of South Sudan. In many cases, their

initiatives have been quite successful. However, one should not forget that women in civil society are naturally as divided as society at large.

The participation in civil society is an act of building social capital. Thus, the norms and values permeated into members of important civil society organizations determine to a large extent the behavior of these members. In this case study, it was observed that civil society groups promote norms, values and interests that are undemocratic, repressive and intolerant.⁷⁹ This often comes as a response to a persisting situation of political, economic and social crisis. The emergence of the Taliban in Afghanistan is an extreme example of the transformation of a civil society force into a political, highly repressive, undemocratic, and violent regime. Though often democratically organized, the majority of these organizations reinforce radical tendencies within societies. In the case of South Sudan, however, some of these membership organizations – those which are democratically organized – contributed considerably more to developing peace and democracy values than did non-democratically organized groups.

This is a very interesting finding, for which there is no sufficient evidence in the case study to come to firm conclusions. More systematic research is needed here. In today's increasingly interconnected world, we cannot fully understand civil society unless we also look beyond the boundaries of a particular state.

The study revealed examples of what is sometimes called the “near diaspora” – migrants residing in neighboring countries-who continue to be part of the conflict dynamics “at home.” Diaspora organizations engage in advocacy work, media production, and support relief, as well as development work in the “homeland.” Just as in the homeland, civil society in the diaspora

⁷⁹Debiel, T., and M. Sticht. 2010. “Towards a New Profile? Development, Humanitarian and Conflict-Resolution NGOs in the Age of Globalization.” *Institute for Development and Peace INEF, Reportno. 79*, Duisburg.

consists of forces that support non-violent conflict resolution, and forces that promote extreme nationalism and military confrontation. It is not rare that Diaspora organizations take on more extremist positions than civil society in the homeland.

4.4 Criticism of Civil Society Functions

Although civil society functions in South Sudan are positive and constructive, clearly many civil society actors might not fulfill one or more of these functions but develop uncivil behaviors, preach hatred against others, act violently and destroy life or property. Associations and organizations can not only be destructive in their behavior but can also have both integrative and disintegrative potentials. On the ground knowledge and sound analysis is required to determine the nature of actors and the functions they perform.⁸⁰ Belloni (2006, pp. 8-10) provides a range of examples from where civil society actors focused only on strengthening their bonding ties, based on a sense of belonging and kinship, that were later channeled destructively. He presumes that the less bridging ties are built the more likely is influence to be detrimental. Although additional research is needed on the conditions under which civil society organizations act positively or negatively, it is important to keep in mind the potential for detrimental effects by civil society actors. It was also evident that constructive civil society functions are not exclusively provided by civil society actors in South Sudan. They can and are also provided by others. Protection for example should be mainly provided by the state, the judiciary and law enforcement authorities. Equally, democratic attitudes are not only learned in voluntary associations, but also in the classroom, family or community.

⁸⁰Belloni 2006). Bericht der Enquete-Kommission '*Zukunft des Bürgerschaftlichen Engagements*.' Bürgerschaftliches Engagement. Auf dem Weg in eine zukunftsfähige Bürgergesellschaft. Drucksache 14/8900. Berlin: Deutscher Bundestag.

The study also established that the constructive civil society functions do not describe the enabling environment in which they operate. As noted before, civil society should not replace the state but rather improve the interplay of citizens with the state. Thus, it needs to be kept in mind, that especially where the state is fragile or authoritarian, external support may need to focus, at least initially, on improving the enabling environment for civil society. This might encompass capacity building for state structures or enforcement of the rule of law.

Service delivery functions by civil societies in South Sudan aim to improve the political interplay between the political and economic systems, and the people, thus ensuring democratic, participatory decision-making in society.⁸¹ Although organizations executing civil society functions generally also provide services to their members or to clients, the model used centers on the political functions or objectives. Thus, service delivery as a function is questioned and mainly considered as an entry point for political civil society functions, but the latter should be based on a careful assessment of whether the specific service is indeed a good entry point for the wider functions and objectives of civil society.

⁸¹Eviota, D. 2005. "Grassroots and South-South Cooperation: Bantay Cease-Fire in the Philippines." In P.van Tongeren et al., eds., *People Building Peace II, Successful Stories of Civil Society*, 388-93. Boulder CO: Lynne Rienner Publishers.

CHAPTER FIVE

FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.0: Introduction

This chapter contains the key findings of the research, conclusion and recommendations for the study.

5.1: Key findings

5.1.1 Summary of Main Findings

A special form of protection chosen by some civil society actors was related to the issue of migration. When the space for civil society activities diminished in size, activists and civilians tended to leave the country. However, many civil society activists continued their work from outside the country, often partnering up with international NGOs or other organizations.

Protection also becomes a key precondition for civil society to act and perform other functions. The case of South Sudan demonstrates this well: even under difficult circumstances during phases of armed conflict, civil society actors could still fulfill many functions. The main limiting factors for protection are hence a high level of violence, and a coercive state with dysfunctional law enforcement institutions, and a lack of funding for professional initiatives.

Socialization of the population at large with general democratic and peace values was a relevant function of the civil society. High levels of violence and the radicalization in society during armed conflict and war works against these initiatives. The study found that, the existing socialization institutions in society are the most influential factors towards how people learn democratic and conflict behavior.

These institutions of socialization are schools, religious and secular associations, clubs, work, and families, which tend to re-enforce existing divides, and thus often foster radicalization. This finding holds for conflicts with a small number of defined adversary groups.

These findings stand in stark contrast to the actual activities performed by civil society organizations. The study indicated that that most NGO peace education initiatives are haphazardly organized in the form of workshops, training, public seminars or peace media, often taking place outside available socialization institutions within society. It is therefore not astonishing that these activities overall tend to not be effective.

In summary, the effectiveness of conflict resolution workshops, dialogue projects, and exchange programs is limited due to the following reasons: Radicalization within society hinders this type of peace work, the main focus of most initiatives is on the main conflict lines only; most initiatives are of a scattered, short-term and fragmented nature; most participants are English-speaking, elite-based representatives who are often already “converted” to the idea of positive images of the other group, people-to-people programs do not reach the society at large as they only focus on the individual level the apolitical nature of most initiatives frame a deeply political problem as a relationship problem, something that can often be misleading, and result in little acceptance and ownership within society;

Many initiatives aimed at changing attitudes, over the long-term, seem ineffective. Existing evidence from South Sudan demonstrates that attitude change might not be necessary for behavior change. Instead, work-related activities, which brought people from different groups together, proved to be more successful than peace-related work. Here people expressed positive experiences from working with the other group, often producing concrete outcomes or common

work initiatives. However, it was noted that participation in such initiatives was an act of empowerment in most cases for the marginalized groups.

Local facilitation by civil society groups is highly relevant during conflict/peace building. The study found that facilitation often took place on the local level and was performed by community leaders (such as traditional or religious leaders) or by local NGOs and associations. They facilitated dialogue between the conflict parties and the community, between aid agencies and the conflict parties or between communities and returning refugees.

In general, a high level of violence or intimidation from the conflicting parties is the main limiting factor for civil society activities. On the flipside, cooperation between traditional and “modern” forces has in many instances enhanced effectiveness. Service delivery proved to be only a function of peace building when used as an entry point for other civil society peace building functions. International NGOs aid in development projects and they donate most of the external funds. Research findings show that where aid initiatives were systematically used for peace building, they often created important entry points for protection, monitoring and social cohesion. The relevance of the Comprehensive Peace Agreement seems to depend on two main factors: the number of entry points it can create for other civil society peace building functions; and the state’s ability to provide services for the population. The case of South Sudan is illustrative of this point.

5.2 Conclusion

The analysis shows major impediments that could hinder peace building in South Sudan. Issues of border demarcation, leadership and most importantly rehabilitating the ex-combatants are central to building durable peace in South Sudan. The inability of South Sudan to address these fundamental problems could probably deteriorate security conditions if not entirely scuttle the

ephemeral peace. In view of this, there is need for peaceful reconciliation of both nations to ease tensions along border lines and therefore the civil society should play its rightful role in peace building.

Finally, independence of South Sudan may not guarantee durable peace; the government of the South Sudan should realize that it has enormous responsibility of revamping a war torn South Sudan and should practically demonstrate the capacity to run all inclusive government that can transform the people; formulate and implement policy trajectories to sustain growth. It is the researcher's opinion that achieving these tasks is largely dependent on successful peace building. This is because neither a legitimate state nor efforts for stable peace can be founded on a political settlement or government that leaves a population at risk of asymmetric or extreme violence (Cook, 2009:2-3).

5.3 Recommendations

The research recommends that the civil society should monitor human rights violations, advocate and facilitate a dialogue for the protection of civilians, and ultimately protect people from suffering due to the war. As such, the functions of protection, monitoring, advocacy and facilitation are of particular relevance in the context of peace building.

The research recommends that service delivery should be of high relevance, when used as an entry point for the functions mentioned above. Thus, the research recommends that aid projects to be used in South Sudan to protect people by performing monitoring functions and informing other organizations about the situation, or else by engaging in direct protection measures.

The research also recommends that during a window of opportunity for peace negotiation, civil society should take up very important-and in some instances-crucial roles in facilitating the onset of negotiations, or in advocating for the inclusion of pertinent issues into a peace agreement.

The research also recommends that the civil society should strengthen its advocacy role. Two types of advocacy become especially relevant within this context; namely, mass mobilization in support for the agreement or for system change, often in the form of large-scale street agitations and secondly agenda setting through targeted advocacy campaigns for the inclusion of relevant issues into the peace agreement.

5.4 Recommendations for further research:

- i. The study recommends to other researchers to further determine when and under what conditions civil society should take up protection functions or whether the State should be strengthened instead.
- ii. The study also recommends investigating the challenges faced by civil society groups in peace building in South Sudan after signing of the Comprehensive Peace Agreement by other upcoming research projects.

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APPENDIX ONE: INTERVIEW SCHEDULE

- i. What are the roles of the civil society in service delivery to enhance peace in South Sudan after signing of CPA?
- ii. Please list the roles of advocacy and public communication that civil society plays to enhance peace in South Sudan after signing of CPA.
- iii. In which ways does the civil society play a role of civil society protection of citizens and communities to enhance peace in South Sudan after signing of CPA?
- iv. Please indicate the basic Civil Society Functions relating to peace building in South Sudan after signing of CPA.
 - i. Do you think public communication is the core function of civil society in deliberative democracy?
 - ii. In your own view do you think civil society is seen as a catalyst of civil virtues or as an antidote to individualism and a retreat to family and states?
 - iii. To what extent does the government play a role in enabling the civil society to play the role of peace building?
 - iv. What are the main contributions of short-term and long-term civil society functions toward various peace building objectives? What is their impact?
 - v. Can it be said that advocacy is one of the most important civil society functions in peace building conflict?
 - vi. Is it true that mass mobilization for peace negotiations and against the recurrence of war in combination with targeted agenda setting (especially though the involvement of civil

society in peace negotiations) are the most effective roles civil society can play during and in the immediate aftermath of armed conflict?

- vii. Is creating a mass movement for peace (by linking scattered grassroots social initiatives with national groups) that presses for change an effective way to support civil society to achieve peace?
- viii. Is the culture of peace function, which receives most of the donor funding, only effective for long-term post-conflict peace building and cannot have an impact on short-term peacemaking?
- ix. Can it be demonstrated that creating bridging ties between adversary groups as a means of conflict sensitive social cohesion through joint initiatives is more effective and easier to implement than initiatives aiming directly at peace building through promoting a culture of peace?